

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

---

|                   |   |                                      |
|-------------------|---|--------------------------------------|
| GREGORY DONNELLY, | ) | )                                    |
|                   | ) |                                      |
| Petitioner,       | ) | )                                    |
|                   | ) |                                      |
| v.                | ) | <b>Civil Action No. 04-12706-RWZ</b> |
|                   | ) |                                      |
| BERNARD BRADY,    | ) | )                                    |
|                   | ) |                                      |
| Respondent.       | ) | )                                    |
|                   | ) |                                      |

---

**RESPONDENT'S SUPPLEMENTARY BRIEF  
IN SUPPORT OF HIS MOTION TO DISMISS PETITION**

Pursuant to this Court's Order dated July 14, 2005, Respondent Bernard Brady (the "Respondent"), hereby submits this supplementary brief in support of his motion to dismiss the habeas corpus petition (the "Petition") filed by Petitioner Gregory Donnelly (the "Petitioner"). This brief begins by clarifying the Respondent's position regarding the Petitioner's action and this action's present procedural posture. It then sets forth a detailed chronology of the litigation of the Petitioner's criminal cases in the Massachusetts courts, as requested by the Court. Based on that chronology, the Respondent then reiterates the argument advanced in the Respondent's Motion to Dismiss Petition that the Petitioner's action is barred by the applicable statute of limitations.

**CLARIFICATION OF THE RESPONDENT'S POSITION AND  
THE PROCEDURAL POSTURE OF THIS ACTION**

At the outset, the Respondent seeks to clarify his position regarding the Petitioner's habeas corpus action and this action's present procedural posture. The Respondent respectfully notes that, contrary to the suggestion in the Court's Order of July 14, 2005, he has not waived his

right to dispute the merits of the Petition. Rather, the Respondent moved to dismiss the Petition on statute of limitations grounds prior to filing an answer in order to have the case disposed of at the outset based on a fatal defect in the Petition, thereby saving the parties and the Court the burden of having to litigate an unsustainable Petition on the merits. The Respondent reserved his right to brief the merits of the Petition in the event that his Motion to Dismiss Petition is denied. Specifically, the Respondent indicated as follows in footnote 1 of his Memorandum of Law in Support of His Motion to Dismiss Petition:

Since the petition must be dismissed for the grounds stated herein, the Respondent does not address herein the merits of the Petition. Should this Court rule that the Petitioner may proceed with his habeas corpus action, the Respondent respectfully requests the opportunity to file an answer and a proposed scheduling order for the parties to brief the merits of the Petition.

(Mem. Supp. Mot. Dismiss Pet. at 1 n.1.)

The use of a motion to dismiss in this manner is entirely appropriate in a habeas corpus case, as in other civil litigation. The Advisory Committee Notes to Rule 5 of the Rules Governing Section 2254 Cases (the “Habeas Corpus Rules”), which deals with responses to petitions, state as follows:

The revised rule does not address the practice in some districts, where the respondent files a pre-answer motion to dismiss the petition. But revised Rule 4 permits that practice and reflects the view that if the court does not dismiss the petition [after preliminary review], it may require (or permit) the respondent to file a motion.

Habeas Corpus Rule 5 advisory comm. notes to 2004 am. The filing and disposition of a pre-answer motion to dismiss is also provided for under Federal Rule of Civil Procedure 12(b)(6), which may be applied to this proceeding pursuant to Habeas Corpus Rule 11. Habeas Corpus Rule 11 (“The Federal Rules of Civil Procedure, to the extent they are not inconsistent with any statutory provisions or these rules, may be applied to a proceeding under these rules.”).

Indeed, it is well-established that “an affirmative defense may be adjudicated on a motion to dismiss for failure to state a claim,” provided that “the facts that establish the defense [are] definitively ascertainable from the allegations of the complaint, the documents (if any) incorporated therein, matters of public record, and other matters of which the court may take judicial notice . . . [and] the facts so gleaned . . . conclusively establish the affirmative defense.”

In re Colonial Mortgage Bankers Corp., 324 F.3d at 16; see also Blackstone Realty LLC v. FDIC, 244 F.3d 193, 197 (1st Cir. 2001) (noting well-settled concept that “affirmative defenses . . . may be raised in a motion to dismiss an action for failure to state a claim.”).

Such motions are, in fact, the proper method for testing the legal sufficiency of an initial pleading. Hall v. Virginia, 385 F.3d 421, 427 (4th Cir. 2004) (“[T]he purpose of Rule 12(b)(6) is to test the legal sufficiency of a complaint.”); Kingman Park Civic Ass’n v. Williams, 348 F.3d 1033, 1040 (D.C. Cir. 2003) (“A Rule 12(b)(6) motion is intended to test the legal sufficiency of the complaint.”); Riddle v. Egensperger, 266 F.3d 542, 550 (6th Cir. 2001) (“[A] motion to dismiss for failure to state a claim upon which relief can be granted . . . tests the legal sufficiency of the plaintiff’s complaint.”); De Jesus v. Sears, Roebuck & Co., 87 F.3d 65, 69 (2nd Cir. 1996) (“‘A motion to dismiss is designed to test the legal sufficiency of the complaint, and thus does not require the Court to examine the evidence at issue.’” (quoting Carey v. Mount Desert Island Hosp., 910 F. Supp. 7, 9 (D. Me. 1995)); In Re Healthcare Compare Corp. Secs. Litig., 75 F.3d 276, 279 (7th Cir. 1996) (referring to “motions to dismiss that test the legal sufficiency of a complaint”); Crutcher v. Aetna Life Ins. Co., 746 F.2d 1076, 1084 (5th Cir. 1984) (“Of course, a motion to dismiss under Rule 12 is the proper method of testing the legal sufficiency of the complaint.”); North Star Int’l v. Arizona Corp. Comm’n, 720 F.2d 578, 581 (9th Cir. 1983) (“The purpose of a motion to dismiss under rule 12(b)(6) is to test the legal sufficiency of the

complaint.”); Peck v. Hoff, 660 F.2d 371, 374 (8th Cir. 1981) (“A motion to dismiss under Rule 12(b)(6) is the usual and proper method of testing the legal sufficiency of the complaint.”).

When such a motion has been brought, dismissal may be ordered where “it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations.” Hishon v. King & Spalding, 467 U.S. 69, 73 (1984); see also, e.g., Conley v. Gibson, 355 U.S. 41, 45-46 (1957) (stating that dismissal may be allowed where “it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief”); In re Colonial Mortgage Bankers Corp., 324 F.3d at 15 (indicating that dismissal is allowable “if the plaintiff’s factual averments hold out no hope of recovery on any theory adumbrated in [his] complaint”); Berner, 129 F.3d at 25 (stating that decision on motion to dismiss requires determination of “whether the pleading encompasses any set of facts that would entitle the plaintiff to relief”); Correa-Martinez, 903 F.2d at 52 (stating that dismissal is allowable “if it clearly appears, according to the facts alleged, that the plaintiff cannot recover on any viable theory”).

In this case, the Respondent’s Motion to Dismiss Petition raised an affirmative defense arising from statutory law. The facts supporting that defense are entirely ascertainable through public records and clearly establish that the Petitioner’s action is not cognizable. Accordingly, the Respondent’s invocation of the statute of limitations through a motion to dismiss prior to addressing the merits of the Petition was proper. Moreover, the allowance of that motion is warranted, as made clear in the chronology and argument that follows. In particular, the Respondent calls attention to Section III of the chronology, as that section is most directly relevant to the statute of limitations issue.

The Respondent nevertheless continues to reserve his right to address the merits of the Petition through an Answer and further briefing should the Court deny his Motion to Dismiss Petition. The Respondent expects that, in that event, such briefing would be limited to the issues raised in the Petition – that is, whether the Petitioner’s due process rights under the U.S. Constitution’s Fourteenth Amendment were violated by his allegedly being “deprived of the benefit to specific performance to the terms of the ‘forthwith’ state sentencing scheme” imposed at his 1993 sentencing. (Pet. ¶ 12.)

## CHRONOLOGY

### **I. The Petitioner’s Convictions Prior to the Conviction Attacked in the Petition**

#### A. The 1980 Conviction

On July 15, 1980, a Plymouth County, Massachusetts, grand jury returned indictments against the Petitioner for armed robbery, in violation of M.G.L. c. 265, § 17, and assault and battery by means of a dangerous weapon, in violation of M.G.L. c. 265, § 15B. (Plymouth Docket Nos. 74020 & 74021, true and accurate copies of which are attached hereto as Exhibit EE).<sup>1</sup> At his July 18, 1980 arraignment, the Petitioner pled not guilty to both charges. (Id.) A jury was empanelled on September 4, 1980. (Id.) The following day, the jury found him guilty on both charges, and he was sentenced to serve a term of twenty years on the armed robbery charge and ten years on the assault and battery charge. (Id.) He was given forty-two days of credit toward his twenty-year armed robbery sentence. (Id.) See also Commonwealth v. Donnelly, 37 Mass. App. Ct. 1117, 641 N.E.2d 1366 (1994), Exhibit O.

During his initial incarceration on these 1980 convictions and certain additional convictions, the Petitioner was awarded 198.5 days of earned time resulting from training,

---

<sup>1</sup> Exhibits A through DD were filed with the Respondent’s Motion to Dismiss Petition. Exhibits beginning with Exhibit EE accompany this Supplementary Brief.

employment and education. (DOC Reports, true and accurate copies of which are attached hereto as Exhibit FF, at 7.)

B. The 1988 Conviction

Following his release,<sup>2</sup> the Petitioner was involved in an October 22, 1987 driving incident that resulted in his arrest. He was arraigned on the following charges in the Gardner, Massachusetts, District Court on November 18, 1987: operating under the influence of liquor, in violation of M.G.L. c. 90, § 24; operating a motor vehicle without a license, in violation of M.G.L. c. 90, § 10; providing a false name to a police officer, in violation of M.G.L. c. 268, § 34; and operating after the revocation of a license or right to operate, in violation of M.G.L. c. 90, § 23. (Gardner Docket No. 8763-CR-1939, a true and accurate copy of which is attached to the accompanying Appendix as Exhibit GG.) He pled not guilty. (*Id.*) On January 15, 1988, he was found guilty on all charges. (*Id.*) On the charge of operating under the influence of liquor, he received a sentence of two years in a house of correction, ninety days of which was to be served forthwith and the balance of which was to be suspended for two years. (*Id.*) On the charge of operating after the revocation of a license or right to operate, he received a sentence of sixty days in a house of correction, to be served concurrently with the sentence on the charge of operating under the influence of liquor. (*Id.*) The other convictions were filed. (*Id.*)

During his initial incarceration on this 1987 conviction, the Petitioner was awarded 112.5 days of earned time resulting from training, employment and education. (DOC Reports, Exhibit FF, at 8.) On September 8, 1988, the Petitioner was paroled to a residential alcohol program.

---

<sup>2</sup> The date of the Petitioner's release is not clear. Records supplied to the Respondent's counsel by the Massachusetts Department of Correction list the Petitioner's date of release as May 25, 1990. Clearly, though, he had been released at least as early as October 22, 1987. The Respondent will supply to the Court any additional or clearer information that he is able to obtain.

(Administrative Chronology, a true and accurate copy of which is attached hereto as Exhibit HH, at 1.)

## **II. The Litigation Leading to the Conviction Attacked in the Petition**

### A. The 1989 Arrest, and Initial Trial and Convictions in 1990

On June 3, 1989, while the Petitioner was on probation and parole, he was involved in a motor vehicle collision resulting in two fatalities and was arrested. Commonwealth v. Donnelly, 37 Mass. App. Ct. 1117, 641 N.E.2d 1366 (1994), Exhibit O. As a result, a parole revocation warrant was lodged against the Petitioner effective June 6, 1989 with respect to the sentence arising from his 1980 conviction. Id. However, no final revocation hearing was ever held. Id.

On July 18, 1989, a Middlesex County, Massachusetts, grand jury returned nine indictments against the Petitioner arising from the June 3, 1989 motor vehicle collision. Specifically, he was charged with the following: two counts of felony motor vehicle homicide, in violation of M.G.L. c. 90, § 24G, one count of operating a motor vehicle while intoxicated causing serious bodily injury, in violation of M.G.L. c. 90, § 24L, one count of operating under the influence of an intoxicating substance, one count of operating to endanger, one count of assault, and two counts of manslaughter. See also Commonwealth v. Donnelly, 33 Mass. App. Ct. 189, 190-91 & n.1, , 597 N.E.2d 1060, 1061-62 n.1 (1992).

As a consequence of these indictments, on August 25, 1989, the Petitioner's probation in connection with his 1988 conviction was terminated, and he was ordered to serve the remainder of the house of correction sentence that had been imposed on that conviction. (Gardner Docket No. 8763-CR-1939.) That remainder totaled two years, less ninety days. (Id.) See also Commonwealth v. Donnelly, 37 Mass. App. Ct. 1117, 641 N.E.2d 1366 (1994), Exhibit O.

Following a trial on the charges arising from the June 3, 1989 motor vehicle collision, the Petitioner was found guilty on January 10, 1990 of both counts of felony motor vehicle homicide and each count of the following: operating while intoxicated causing serious bodily injury, operating under the influence, operating to endanger, and assault. Commonwealth v. Donnelly, 33 Mass. App. Ct. 189, 190-91 & n.1, , 597 N.E.2d 1060, 1061-62 n.1 (1992). He was found not guilty on the remaining counts. Id. On January 24, 1990, he was sentenced on the vehicular homicide convictions to two consecutive terms of between thirteen and fifteen years at MCI-Cedar Junction “forthwith . . . [t]he defendant having spent 4 days in confinement prior to such sentence awaiting and during trial.” (Middlesex Indictments & Initial Dockets, true and accurate copies of which are attached hereto as Exhibit II.) The trial judge later revised and revoked the vehicular homicide sentences, ordering that they run concurrently. (Order of Feb. 28, 1990, a true and accurate copy of which is attached hereto as Exhibit JJ) On the conviction for operating while intoxicated causing serious bodily injury, he was sentenced to a term of between fourteen and one-half to fifteen years at MCI-Cedar Junction, suspended for six years, beginning from and after the sentences on the vehicular homicide convictions. (Middlesex Indictments & Initial Dockets, Exhibit II.) As probation conditions, the court prohibited him from using alcohol or driving. (Id.)

The Petitioner appealed his 1990 convictions to the Massachusetts Appeals Court (the “Appeals Court”). In an August 18, 1992 decision, that court reversed his convictions for motor vehicle homicide and operating while intoxicated causing serious bodily injury, remanded the case to the Superior Court for a new trial on those charges, and affirmed the convictions on the remaining counts. (Middlesex Docket 1989-02016, Exhibit A.) Commonwealth v. Donnelly, 33 Mass. App. Ct. 189, 201, 597 N.E.2d 1060, 1068 (1992), Exhibit M. The Massachusetts

Supreme Judicial Court (“SJC”) denied further appellate review of the Appeals Court’s decision on October 1, 1992. Commonwealth v. Donnelly, 413 Mass. 1107, 600 N.E.2d 1000 (1992) (table decision), Exhibit N.

B. The Conviction Attacked in the Petition: The 1993 New Trial and Conviction Arising from the 1989 Arrest

On May 10, 1993, a new trial on the charges of felony motor vehicle homicide and the charge of operating while intoxicated causing serious bodily injury was commenced in the Middlesex County Superior Court before the Honorable Regina L. Quinlan and a jury. However, a mistrial was declared on May 12, 1993. (Middlesex Docket 1989-02016; Middlesex Docket 1989-02017, a true and accurate copy of which is attached hereto as Exhibit B; Middlesex Docket 1989-02018, a true and accurate copy of which is attached hereto as Exhibit C.) On May 13, 1993, the Petitioner pled guilty, withdrew that plea, and then entered a new guilty plea pursuant to a plea agreement. (Middlesex Docket 1989-02016; Middlesex Docket 1989-02017; Middlesex Docket 1989-02018.) His guilty plea was accepted and a sentence was imposed by Justice Quinlan. (Middlesex Docket 1989-02016; Middlesex Docket 1989-02017; Middlesex Docket 1989-02018.) On the charges of motor vehicle homicide while intoxicated, he was sentenced to serve two concurrent terms of between ten and ten and a half years at MCI-Cedar Junction. (Middlesex Docket 1989-02016; Middlesex Docket 1989-02017.) In connection with one of the charges, the docket reflects the Court’s order that “[t]his sentence to take effect forthwith notwithstanding the sentence now being served at M.C.I., Concord.” (Middlesex Docket 1989-02016.) On the charge of operating while intoxicated causing serious bodily injury, he was sentenced to a suspended term of between six and eight years at MCI-Cedar Junction and a five-year probationary term, to commence from and after the expiration of the sentence on the other motor vehicle charges. (Middlesex Docket 1989-02018.) The Petitioner

was also given credit for 1174 days of time served between his June 3, 1989 arrest and the August 18, 1992 reversal of his convictions (Middlesex Docket 1989-02016; Middlesex Docket 1989-02017), was barred from operating a motor vehicle in Massachusetts, and was ordered to submit to evaluation for alcohol treatment if deemed necessary by the Probation Department.

### **III. The Petitioner's State-Court Litigation Regarding His Sentence and Jail Time Credits**

On June 2, 1993, the Petitioner filed a Motion for Jail Time, in which he sought credit for the time in between the Appeals Court's overturning of his conviction on August 18, 1992 and his pleading guilty on May 13, 1993. (Middlesex Docket 1989-02016; Middlesex Docket 1989-02017.) Donnelly, 37 Mass. App. Ct. 1117, 641 N.E.2d 1366. His motion was denied on June 23, 1993, without prejudice to his ability to seek declaratory relief through a civil action. (Middlesex Docket 1989-02016; Middlesex Docket 1989-02017.) He filed a Notice of Appeal of that decision on July 6, 1993 (Middlesex Docket 1989-02016; Middlesex Docket 1989-02017), and his appeal was entered on the docket of the Appeals Court on August 26, 1993 (Appeals Ct. Docket 1993-P-1149, Exhibit H). He also filed a civil action seeking declaratory relief on July 14, 1993, but that action was dismissed on September 15, 1993. (Middlesex Docket 1993-04083, Exhibit D.) Additionally, on October 6, 1993, the Petitioner filed a Motion to Amend, and a motion for reconsideration of the court's denial of His Motion for Jail Time and for leave to file an Amended Motion for Post Conviction Relief. (Middlesex Docket 1989-02016.) The latter motion was denied on December 1, 1993. (Id.) He then filed a Supplemental Motion for Reconsideration of His Motion for Jail Time on December 6, 1993, as well as a Motion for Post-Conviction Relief on December 13, 1993. (Id.) The Motion for Post-Conviction Relief was denied on March 7, 1994, and the Petitioner filed a Notice of Appeal of that decision on March 28, 1994. (Id.) On November 4, 1994, the Appeals Court remanded the Petitioner's case to the

Superior Court for recalculation of his jail credit time. (*Id.*; Appeals Ct. Docket 1993-P-1149.) Donnelly, 37 Mass. App. Ct. 1117, 641 N.E.2d 1366. The Petitioner nevertheless filed an Application for Leave to Obtain Further Appellate Review of the Appeals Court's decision on November 18, 1994, which application was denied by the SJC on January 4, 1995. (SJC Docket FAR-07551, Exhibit I.) Commonwealth v. Donnelly, 419 Mass. 1103, 646 N.E.2d 409 (1995) (table decision), Exhibit P. The Superior Court awarded him credit for 139 days of time served on April 1, 1995. (Middlesex Docket 1989-02016.)

Then, on or about April 13, 1995, the Petitioner filed a letter to Justice Quinlan that, in part, raised issues concerning his sentence. (Letter from Donnelly to Quinlan of 4/13/95 & Order, Exhibit U.) The Petitioner also filed a Motion to Correct Sentence in the Middlesex Superior Court on April 28, 1995. (Middlesex Docket 1989-02016; 1995 Mot. Correct Sentence, Exhibit V.) He argued in his motion that his "concurrent and from and after sentences [were] dupl[icati]ous, and therefore constitut[e] double jeopardy." (1995 Mot. Correct Sentence at 1.) On the same date that the Petitioner filed his Motion to Correct Sentence, he petitioned for a state writ of habeas corpus in the Middlesex Superior Court. (Middlesex Docket 1995-02633, Exhibit E.) In a May 3, 1995 Opposition, the Commonwealth responded to the arguments raised in both the Petitioner's letter to Justice Quinlan and his Motion to Correct Sentence. (Commonwealth's Opp'n Def.'s Mot. Correct Sentence & Deft.'s Letter Treated as Mot., Exhibit W.)

In a May 30, 1995 Order on the margin of the Petitioner's letter, Justice Quinlan stated as follows: "Having ordered that the letter be treated as a motion for post-conviction relief and having reviewed the 'motion' and opposition thereto, the motion is denied. The defendant has been given the 139 days jail credit as directed by the Appeals Court." (Middlesex Docket 1989-

02016; Letter from Donnelly to Quinlan of 4/13/95 & Order.) It is clear that Justice Quinlan's May 30, 1995 Margin Order disposed of both the Petitioner's April 13, 1995 letter and his April 28, 1995 Motion to Correct Sentence, as the Margin Order indicated that it took into account the Commonwealth's Opposition (Letter from Donnelly to Quinlan of 4/13/95 & Order), and the Commonwealth's Opposition addressed both the April 13, 1995 letter and the April 28, 1995 Motion to Correct Sentence (Commonwealth's Opp'n Def.'s Mot. Correct Sentence & Deft.'s Letter Treated as Mot.).

The Petitioner's petition for a state writ of habeas corpus was denied by the Superior Court on October 30, 1995, and he filed a Notice of Appeal of that decision on November 8, 1995. (*Id.*) The Appeals Court affirmed the denial of habeas corpus relief in a July 31, 1996 decision. Commonwealth v. Donnelly, 41 Mass. App. Ct. 1102, 668 N.E.2d 381 (1996), Exhibit Q. Further appellate review was denied by the SJC on October 2, 1996. (SJC Docket FAR-08709, Exhibit J.) In re Donnelly, 423 Mass. 1108, 671 N.E.2d 951 (1996) (table decision), Exhibit R.

Also on October 2, 1996, the Petitioner was paroled from state custody. (Administrative Chronology, Exhibit HH, at 3.) His parole was revoked on July 17, 1998, and he was returned to confinement effective July 22, 1998. (*Id.* at 4.) The Petitioner was again paroled on December 18, 1998. (*Id.*) During his initial incarceration on his May 13, 1993 convictions, the Petitioner was awarded 122.5 days of earned time resulting from training, employment and education. (DOC Reports, Exhibit FF, at 9.)

On August 6, 1999, the Petitioner was arrested once more and charged in Middlesex County with the following offenses: two counts of assault with a dangerous weapon, in violation of M.G.L. c. 265, § 15B; one count of unauthorized use of a motor vehicle as a second offense,

in violation of M.G.L. c. 90, § 24; one count of driving while intoxicated, in violation of M.G.L. c. 90, § 24; one count of driving negligently or recklessly, in violation of M.G.L. c. 90, § 24; one count of driving after license suspension or revocation, in violation of M.G.L. c. 90, § 23; one count of failure to stop, in violation of M.G.L. c. 90, § 25; and one count of resisting arrest, in violation of M.G.L. c. 268, § 32. (Middlesex Docket 1999-01193, Exhibit F.)

In light of these charges, his parole was revoked on August 19, 1999. (Administrative Chronology, Exhibit HH, at 4.) On January 27, 2000, the Petitioner's probation in connection with his May 13, 1993 Middlesex County conviction was transferred to the Suffolk County Superior Court, and a final probation surrender hearing was held. (Suffolk Docket 1999-11105, Exhibit G.) At that time, the court found the Petitioner in violation of the terms and conditions of his probation and ordered the imposition of the sentence that had been suspended in 1993. (Id.) The Docket noted as follows: "Court orders suspended sentence imposed. May 13, 1993 to take effect as follows: MCI Cedar Junction – max: eight years, min: six years. This sentence said Defendant is presently serving." (Id.)

On April 2, 2002, the Petitioner pled guilty to and was sentenced on the following counts arising from his August 6, 1999 arrest: two counts of assault with a dangerous weapon; one count of unauthorized use of a motor vehicle as a second offense; one count of driving while intoxicated; one count of driving negligently or recklessly; one count of driving after license suspension or revocation; one count of failure to stop; and one count of resisting arrest (Middlesex Docket 1999-01193, Exhibit F.) The charges of driving negligently or recklessly, failure to stop, and resisting arrest were placed on file. (Id.) On the charge of assault with a deadly weapon, the Petitioner was required to post a \$100 bond and was placed on probation for three years. (Id.) On the remaining charges, he was sentenced to serve concurrent terms of two

and one-half years in a house of correction, to take effect from and after the expiration of the sentence that he was then serving. (*Id.*) The Petitioner filed a Motion to Revise and Revoke Sentence Pursuant to Mass. R. Crim. P. 29 in that case on April 30, 2002, and it was denied on May 29, 2002. (*Id.*)

On October 16, 2002, the Petitioner filed a pro se Motion to Correct an Illegal Sentence in the Suffolk Superior Court under the case number assigned to his probation case. (*Id.*; 2002 Mot. Correct Sentence, Exhibit X.) In a letter dated October 31, 2002, the Middlesex District Attorney's Office advised the Honorable Charles T. Spurlock, Regional Administrative Justice for the Suffolk Superior Court, that that motion related to "a Middlesex case in which probation has been transferred to Suffolk." (Letter from Grant to Spurlock of 10/31/02, Exhibit Y, at 1.) The District Attorney's Office "respectfully suggest[ed] that the present motion to correct the sentence should be assigned to Justice Quinlan, who imposed it." (*Id.* at 2.) Justice Quinlan was copied on the letter. (*Id.*)

As a result of the letter from the District Attorney's Office to the two justices, both justices issued rulings denying the Petitioner's October 16, 2002 Motion to Correct an Illegal Sentence. Specifically, Justice Spurlock denied the motion without a hearing on October 30, 2002, and his decision was entered on the docket of the Suffolk Superior Court case. (Suffolk Docket 1999-11105.) The Petitioner filed a Motion for Reconsideration of that decision on November 22, 2002, which was denied without a hearing on December 4, 2002. (*Id.*) He then filed a Notice of Appeal of the decision on December 16, 2002. (*Id.*) Additionally, on December 18, 2002, Justice Quinlan issued an "Order on Defendant's Motion to Correct Sentence" under the number of the Middlesex County case giving rise to the Petitioner's May 13, 1993 conviction. (Order on Def.'s Mot. Correct Sentence, Exhibit Z.) The Order stated in its

entirety as follows: "Having reviewed the defendant's motion, the Commonwealth's opposition and the decisions of the Appeals Court and in light of the issues having previously been rejected by the Appeals Court, the defendant's Motion to Correct Sentence is DENIED." (Id.) The Petitioner on June 12, 2003 obtained leave to file a notice of appeal of Justice Quinlan's decision out of time, and that appeal was consolidated with the appeal of Justice Spurlock's decisions. (Appeals Ct. Docket 2002-P-0186, Exhibit K; Middlesex Docket 1989-02016.)

There should be no doubt that Justice Quinlan's December 18, 2002 Order disposed of the Petitioner's October 16, 2002 Motion to Correct an Illegal Sentence, and not his April 28, 1995 Motion to Correct Sentence. First, Justice Quinlan stated that the issues before her had been addressed by the Appeals Court (Order on Def.'s Mot. Correct Sentence), and the Appeals Court had never addressed the double-jeopardy and duplicity claims raised in the Petitioner's April 28, 1995 Motion to Correct Sentence (1995 Mot. Correct Sentence). See Donnelly, 41 Mass. App. Ct. 1102, 668 N.E.2d 381; Donnelly, 37 Mass. App. Ct. 1117, 641 N.E.2d 1366. Second, Justice Quinlan's December 18, 2002 decision was rendered only about two months after the filing of the October 16, 2002 Motion to Correct an Illegal Sentence, while it was handed down more than seven years after the filing of the April 28, 1995 Motion to Correct Sentence. (Middlesex Docket 1989-02016; Suffolk Docket 1999-11105.) Third, the appeal of Justice Quinlan's December 18, 2002 decision was entered on the same docket as and heard together with the appeal of Justice Spurlock's decisions without any need for a motion to consolidate. (Appeals Ct. Docket 2002-P-0186.) Fourth, the Commonwealth's filings in the Appeals Court stated that the Petitioner's October 16, 2002 Motion to Correct an Illegal Sentence was disposed of by both Justice Spurlock and Justice Quinlan, and these statements were never challenged by the Petitioner. (Notice of Appearance as Counsel for Commonwealth,

Exhibit AA, at 1 (“On receipt of [the October 31, 2002 letter of the District Attorney’s Office], both the motion judge and the plea judge denied the same motion to correct the sentence.”) (emphasis in original) (citations omitted)); Commonwealth’s Br. & Supp’l R. App. to Appeals Ct., Exhibit DD, at 5-9 (stating that, “[o]n December 18, 2002, having received the copy of the Commonwealth’s letter, the plea judge [Justice Quinlan] also denied the same motion to correct the sentence [that had been denied by Justice Spurlock],” and that the appellate prosecutor’s “notice of appearance pointed out that both the motion judge and the plea judge had denied the same motion to correct the sentence”).)<sup>3</sup> In fact, the Petitioner appeared to acknowledge the accuracy of such statements. (Def.’s Mot. Strike, Exhibit BB, at 1-4 (indicating that Justice Quinlan’s decision related to Motion to Correct an Illegal Sentence that had never been placed on Middlesex Superior Court’s docket); Def.’s Aff. Supp. Mot. Strike, Exhibit CC, ¶ 10 (“I never received notice from anyone that my motion to correct an illegal sentence had also been filed in Middlesex County for consideration by Justice Quinlan.”), ¶ 13 (“[H]ad I received notice of Justice Quinlan’s denial of my motion to correct an illegal sentence, I would have timely filed a motion for reconsideration, as well as a timely notice of appeal from Justice Quinlan’s denial(s), as I did in Suffolk County from Justice Spurlock’s orders denying my said motions.”).)

In an August 17, 2004 Memorandum and Order, the Appeals Court affirmed Justice Spurlock’s denial of the Petitioner’s Motion to Correct Sentence and Motion to Reconsider, as well as Justice Quinlan’s decision of December 18, 2002. (Appeals Ct. Docket 2002-P-0186; Middlesex Docket 1989-02016.) Commonwealth v. Donnelly, 61 Mass. App. Ct. 1121, 813 N.E.2d 584 (2004), Exhibit S. The Petitioner continued to pursue his appeal by filing an Application for Leave to Obtain Further Appellate Review (“ALOFAR”) with the SJC on

---

<sup>3</sup> Within a corresponding parenthetical in his Memorandum of Law in Support of His Motion to Dismiss Petition, the Respondent mistakenly referred to the date of the letter from the District Attorney’s Office as April 13, 1995.

September 7, 2004. (SJC Docket FAR-14358, Exhibit L; Appeals Ct. Docket 2002-P-0186.)

Commonwealth v. Donnelly, 442 Mass. 1111, 816 N.E.2d 1222 (2004) (table decision), Exhibit T. His ALOFAR was denied on October 27, 2004. Id.

As the Respondent observed in his Memorandum of Law in Support of His Motion to Dismiss Petition, the underlying dockets may appear at first blush to be subject to the following alternate interpretation: Justice Quinlan's May 30, 1995 Margin Order disposed of the Petitioner's April 13, 1995 letter, but not his April 28, 1995 Motion to Correct Sentence; the Petitioner's October 16, 2002 Motion to Correct an Illegal Sentence was disposed of solely by Justice Spurlock's October 30, 2002 decision; and the Petitioner's April 28, 1995 Motion to Correct Sentence was not disposed of until Justice Quinlan's decision on December 18, 2002. (Attached hereto as Exhibit KK is a chart reflecting the better interpretation and the alternate interpretation of the litigation history.) As argued in the Respondent's Memorandum and established in the foregoing chronology, this interpretation cannot be found correct. The following is a summary of the factors discussed above that must be found to militate against such an interpretation: Justice Quinlan's May 30, 1995 Margin Order indicated that it took into account the Commonwealth's Opposition, which Opposition addressed both the Petitioner's April 13, 1995 letter and his April 28, 1995 Motion to Correct Sentence; Justice Quinlan's December 18, 2002 decision stated that the issues before her had been addressed by the Appeals Court, but the Appeals Court had never addressed the double-jeopardy and duplicity claims raised in the Petitioner's April 28, 1995 Motion to Correct Sentence; Justice Quinlan's December 18, 2002 decision was rendered much closer in time to the Petitioner's October 16, 2002 Motion to Correct an Illegal Sentence than to his April 28, 1995 Motion to Correct Sentence; the appeal of Justice Quinlan's December 18, 2002 decision was entered on the same docket as and heard

---

(Mem. Supp. Mot. Dismiss Pet. at 12.)

together with the appeal of Justice Spurlock's decisions without any need for a motion to consolidate; and the Commonwealth's filings in the Appeals Court stated that the Petitioner's October 16, 2002 Motion to Correct an Illegal Sentence was disposed of by both Justice Spurlock and Justice Quinlan, and these statements were never challenged by, and appear to have been acknowledged as accurate by, the Petitioner.

Moreover, and quite importantly, even after the Respondent's Motion to Dismiss Petition noted this alternative interpretation of the litigation history, neither of the Petitioner's two responses to the Motion to Dismiss Petition adopted such an interpretation. (Pet'r's Opp'n Mot. Dismiss Pet.; Letter from Donnelly to Court dated July 5, 2005.) In fact, consistent with his position before the Appeals Court, the Petitioner in no way challenged the interpretation of the docket that the Respondent argued was the correct interpretation. (Pet'r's Opp'n Mot. Dismiss Pet.; Letter from Donnelly to Court dated July 5, 2005.)

During his incarceration on his reinstated May 13, 1993 sentence and his April 2, 2002 sentences, the Petitioner was awarded 230 days of earned time resulting from training, employment and education. (DOC Reports, Exhibit FF, at 11.) He was transferred from Old Colony Correctional Center, a state correctional facility, to the Middlesex House of Correction, at county facility, on December 31, 2004. (Id., at 4.)

#### **IV. The Proceedings in the Instant Habeas Corpus Action**

The Petition at issue was filed in the United States District Court on December 28, 2004. On April 15, 2005, the Respondent filed a Motion to Dismiss Petition on the grounds that the Petition had not been filed within the statute of limitations provided for under 28 U.S.C. § 2254. (Resp't's Mot. Dismiss Pet.) As discussed in the foregoing section, within his argument on the statute of limitations issue, the Respondent put forth two potential interpretations of the docket in

the Petitioner's underlying criminal litigation, and then explained that one of those interpretations must be found correct. (*Id.*) The interpretation favored by the Respondent yielded the conclusion that no post-conviction or collateral challenge to the Petitioner's conviction was pending during AEDPA's first year of effectiveness, thus making the filing of his Petition more than one year after AEDPA's effective date untimely. (*Id.*)

The Respondent additionally indicated in his Motion to Dismiss Petition that, in light of the grounds for dismissal of the Petition, he would not address the merits of the Petition at that time. (*Id.*) He requested the opportunity to file an answer and a proposed scheduling order for the parties to brief the merits of the Petition in the event that his Motion to Dismiss Petition was denied. (*Id.*)

The Petitioner filed an opposition to the Motion to Dismiss Petition on May 16, 2005 and an additional letter to the Court responding to the Motion to Dismiss Petition on July 8, 2005. (Pet'r's Opp'n Mot. Dismiss Pet.; Letter from Donnelly to Court dated July 5, 2005.)

Significantly, as noted above, nowhere in either of these responses to the Motion to Dismiss Petition did the Petitioner adopt the above-referenced alternate view of his litigation history or otherwise challenge the interpretation of the litigation history supported by the Respondent. (Pet'r's Opp'n Mot. Dismiss Pet.; Letter from Donnelly to Court dated July 5, 2005.) Instead, the Petitioner implied that his one-year limitations period must be found to have commenced on October 27, 2004, when the SJC denied his ALOFAR with respect to the denial of his October 16, 2002 Motion to Correct an Illegal Sentence by Justice Spurlock on October 30, 2002 and Justice Quinlan on December 18, 2002. (Pet'r's Opp'n Mot. Dismiss Pet., at 1-2; Letter from Donnelly to Court dated July 5, 2005, at 6-7.) The Petitioner did not address the Respondent's citation of case law to the effect that an expired period of limitations may not be restarted and

then tolled by the filing of motions for post-conviction or collateral relief (Mem. Supp. Mot. Dismiss Pet. at 13-14). (Pet'r's Opp'n Mot. Dismiss Pet.; Letter from Donnelly to Court dated July 5, 2005.)

On July 14, 2005, the Court issued its Order requesting the filing of this Supplementary Brief.

### **ARGUMENT**

#### **The above chronology affirms that the Petition is time-barred.**

Based on the foregoing, it is clear that the Petition was filed beyond the limitations period applicable to habeas corpus cases challenging state convictions. That statute provides as follows:

- (1) A 1-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of –
  - (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
  - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;
  - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
  - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.
- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

28 U.S.C. § 2244(d), as amended by AEDPA, P.L. No. 104-132, 110 Stat. 1214 (effective April 24, 1996).

In cases where the conviction at issue became final prior to AEDPA's effective date of April 24, 1996, courts have afforded a one-year grace period for those incarcerated to file habeas corpus petitions. See, e.g., Gaskins v. Duval, 183 F.3d 8, 9 (1st Cir. 1999) (concluding that one-year grace period should be afforded where cause of action accrued before April 24, 1996). See also Rogers v. United States, 180 F.3d 349, 355 & n.13 (1st Cir. 1999) (recognizing one-year grace period for motions pursuant to 28 U.S.C. § 2555 and concluding that period ended on April 24, 1997). The tolling provision contained in § 2244(d)(2) has likewise been made applicable to this judicially-crafted grace period. See, e.g., Gaskins, 183 F.3d at 10 (noting trend of circuit and district courts in applying tolling provision to grace period); Huenefeld v. Maloney, 62 F. Supp. 2d 211, 218 (D. Mass. 1999) ("[T]he tolling provisions of § 2244(d)(2) do apply to the judge made grace period.").

Given that the judgment attacked in the Petition was entered prior to AEDPA's effective date, the limitations period for the Petitioner ended on April 24, 1997, unless it was tolled by the pendency of a "properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim," 28 U.S.C. § 2244(d)(2). See, e.g., Gaskins, 183 F.3d at 9; Rogers, 180 F.3d at 355 & n.13.<sup>4</sup> Here, a proper reading of the underlying litigation history establishes that the Petitioner's April 28, 1995 Motion to Correct Sentence was disposed of by Justice Quinlan on May 30, 1995. Thus, neither this motion nor any other motion for collateral

---

<sup>4</sup> The Petitioner's petition for a state writ of habeas corpus would not have tolled the limitations period, because such a petition cannot be used to attack a conviction on the merits. See Sheriff of Suffolk County v. Pires, 438 Mass. 96, 99-100, 777 N.E.2d 1231, 1233-34 (2002) (stating that state writ of habeas corpus cannot be used to challenge merits of criminal conviction).

relief was pending during the first year after AEDPA's effective date, and the Petitioner's time for seeking federal habeas relief expired on April 24, 1997.

As the Petition at issue was not filed until more than seven years after this date, it is time-barred. Contrary to the suggestion by the Petitioner (Pet'r's Opp'n Mot. Dismiss Pet., at 1-2; Letter from Donnelly to Court dated July 5, 2005, at 6-7), the fact that the Petitioner sought additional collateral review years after the April 24, 1997 deadline does not impact this analysis. The tolling provisions contained in 28 U.S.C. § 2244(d)(2) do not provide for a limitation period that has already expired to be restarted and then tolled. See, e.g., Delaney v. Matesanz, 264 F.3d 7, 11 (1st Cir. 2001) (concluding that AEDPA's limitations period was not tolled by new trial motion because, by the time it was filed, the one-year period had already expired); Dunker v. Bissonnette, 154 F. Supp. 2d 95, 103 (D. Mass. 2001) (stating that state-court motion filed after AEDPA's limitation period expired did not "revive" statute of limitations). Thus, the Petition filed on December 28, 2004 remains untimely and must be dismissed. See, e.g., Voravongsa v. Wall, 349 F.3d 1, 8 (1st Cir. 2003) (affirming dismissal of petition that was not timely filed).

### **CONCLUSION**

For the foregoing reasons, this Court should allow the Respondent's Motion to Dismiss.

Respectfully submitted,

THOMAS F. REILLY  
Attorney General

/s/ Randall E. Ravitz  
Randall E. Ravitz (BBO # 643381)  
Assistant Attorney General  
Criminal Bureau  
One Ashburton Place  
Boston, Massachusetts 02108  
(617) 727-2200, ext. 2852

Dated: August 26, 2005

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the above document was served on August 26, 2005, by first-class mail, postage prepaid, upon:

Gregory Donnelly  
Middlesex House of Correction  
269 Treble Cove Road  
Billerica, MA 01862

pro se

/s/ Randall E. Ravitz  
Randall E. Ravitz

**EXHIBITS**

- EXHIBIT EE. Docket in connection with Commonwealth v. Gregory Donnelly, Case Nos. 74020 and 74021 in the Plymouth County, Massachusetts, Superior Court (“Plymouth Docket Nos. 74020 & 74021”)
- EXHIBIT FF. Booking Search Results, Sentencing Information, and Inmate Sentence Listings concerning Gregory Donnelly supplied by the Massachusetts Department of Correction (“DOC Reports”)
- EXHIBIT GG. Docket in connection with Commonwealth v. Gregory Donnelly, Case No. 8763-CR-1939 in the Gardner, Massachusetts, District Court (“Gardner Docket No. 8763-CR-1939”)
- EXHIBIT HH. Exhibit 8 to the Habeas Corpus Petition filed by the Petitioner, a Massachusetts Department of Correction Administrative Chronology concerning Gregory Donnelly (“Administrative Chronology”)
- EXHIBIT II. Indictments and initially prepared dockets in connection with Commonwealth v. Gregory Donnelly, Case Nos. 1989-02016 through 1989-02018 in the Middlesex County, Massachusetts, Superior Court (“Middlesex Indictments & Initial Dockets”)
- EXHIBIT II. Order revising and revoking sentence dated February 28, 1990 in connection with Commonwealth v. Gregory Donnelly, Case No. 1989-02016 in the Middlesex County, Massachusetts, Superior Court (“Order of Feb. 28, 1990”)
- EXHIBIT KK. Chart: Selected Litigation Events, with Better Interpretation and Alternate Interpretation of Activity



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL  
ONE ASHBURTON PLACE  
BOSTON, MASSACHUSETTS 02108-1598

THOMAS F. REILLY  
ATTORNEY GENERAL

(617) 727-2200  
[www.ag.state.ma.us](http://www.ag.state.ma.us)

August 26, 2005

**Via First-Class Mail**

Ms. Sarah A. Thornton, Clerk  
United States District Court  
District of Massachusetts  
John Joseph Moakley U.S. Courthouse  
One Courthouse Way  
Boston, MA 02210

Re: *Gregory Donnelly v. Bernard Brady,*  
Civil Action No. 04-12706-RWZ

Dear Ms. Thornton:

Enclosed for filing please find *Respondent's Supplementary Brief in Support of His Motion to Dismiss Petition*. A copy of this document without its Exhibits is being filed electronically, along with a corresponding *Notice of Filing with Clerk's Office*. Please do not hesitate to contact me if you have any questions regarding the enclosed. Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Randall E. Ravitz".

Randall E. Ravitz

cc: Gregory Donnelly, pro se (via first-class mail)



**EXHIBITS**

- EXHIBIT EE. Docket in connection with Commonwealth v. Gregory Donnelly, Case Nos. 74020 and 74021 in the Plymouth County, Massachusetts, Superior Court (“Plymouth Docket Nos. 74020 & 74021”)
- EXHIBIT FF. Booking Search Results, Sentencing Information, and Inmate Sentence Listings concerning Gregory Donnelly supplied by the Massachusetts Department of Correction (“DOC Reports”)
- EXHIBIT GG. Docket in connection with Commonwealth v. Gregory Donnelly, Case No. 8763-CR-1939 in the Gardner, Massachusetts, District Court (“Gardner Docket No. 8763-CR-1939”)
- EXHIBIT HH. Exhibit 8 to the Habeas Corpus Petition filed by the Petitioner, a Massachusetts Department of Correction Administrative Chronology concerning Gregory Donnelly (“Administrative Chronology”)
- EXHIBIT II. Indictments and initially prepared dockets in connection with Commonwealth v. Gregory Donnelly, Case Nos. 1989-02016 through 1989-02018 in the Middlesex County, Massachusetts, Superior Court (“Middlesex Indictments & Initial Dockets”)
- EXHIBIT II. Order revising and revoking sentence dated February 28, 1990 in connection with Commonwealth v. Gregory Donnelly, Case No. 1989-02016 in the Middlesex County, Massachusetts, Superior Court (“Order of Feb. 28, 1990”)
- EXHIBIT KK. Chart: Selected Litigation Events, with Better Interpretation and Alternate Interpretation of Activity

**EXHIBIT EE**

**SUPERIOR COURT, CRIMINAL****COMMONWEALTH****VS.**GREGORY M. DONNELLY  
Brockton

No. 4020

INDICTMENT

Case 1:04-cv-12706-RWZ

MAR 08 1994 17:12 FROM

Document 19-2

Filed 08/26/2005

Page 4 of 20

TO 517225871

PAGE 002

| OFFENSE       | PLACE    | PRESIDING JUSTICE | COUNSEL FOR DEFENDANT |
|---------------|----------|-------------------|-----------------------|
| Armed Robbery | Brockton |                   |                       |

**DOCKET ENTRIES**

| DATE         | PRINCIPAL ENTRY   | REMARKS |
|--------------|---|---------|
| July 15 1980 | (1) Returned into court and ordered filed   |         |
| July 18      | (2) Appearance of Lehman, for the deft.   |         |
|              | (3) Pleads not guilty   |         |
|              | (4) Order for the transmittal of bail   |         |
| Prince, J.   |   |         |
| July 18      | (5) Pre-trial conference report to be filed by August 7, 1980                               |         |
| Prince, J.   |   |         |
| July 30      | Appearance of Mulholland for the Commonwealth   |         |
|              | (7) Bail, 25,000 (real estate) Richard and Patricia Donnelley surety                        |         |
| August 14    | (8) pre-trial conference report filed August 14, 1980                                       |         |
| August 28    | (9) Commonwealth's answers to request for discovery   |         |
| September 9  | (10) Certificate of protracted trial  |         |
|              | (11) Jury of 14 empanelled  |         |
| Sept. 5      | (12) Verdict of Guilty  |         |
|              | (13) Sentenced to 20 years Massachusetts Correctional Institute at Concord (42 credit days) |         |
|              | (14) Deft. notified to right of appeal  |         |
|              | (15) Clerks written statement under Supreme Court rule 65                                   |         |
|              | (16) Warrant for commitment   |         |

**S.A. I**

**SUPERIOR COURT, CRIMINAL****COMMONWEALTH****VS.****NO. 74021**

INDICTMENT

GREGORY M. DONNETT  
Brockton

| OFFENSE   |      | PLACE  | PRESIDING JUSTICE | COUNSEL FOR DEFENDANT |
|---|------|--|-------------------|-----------------------|
| Assault and Battery by means of<br>a dangerous weapon |      | Brockton   |                   |                       |
| <b>DOCKET ENTRIES</b>                                 |      |  |                   |                       |
| DATE  |      |  |                   |                       |
| July 15 1980  |      | (1) Returned into court and ordered filed                                |                   |                       |
| 18  | (2)  | Pleads not guilty  |                   |                       |
|   | (3)  | Order of the transmittal of bail (See 74020)                             |                   |                       |
|   | (4)  | Pre-trial conference report to be filed by August 7, 1980                |                   |                       |
| Aug. 14 1980  | (5)  | Pre-trial conference report (See 74020)                                  |                   |                       |
| 28  | (6)  | Commonwealth's answers to request for discovery (See 74020)              |                   |                       |
| Sept. 4 1980  | (7)  | Certificate of protracted trial (See 74020)                              |                   |                       |
|   | (8)  | Jury of 14 impanelled (See 74020)  |                   |                       |
|   | (9)  | Verdict of guilty  |                   |                       |
| 5   | (10) | Sentenced to 10 years at Massachusetts Correctional Institute at Concord |                   |                       |
|   | (11) | Deft. advised of his right to appeal sentence imposed                    |                   |                       |
|   | (12) | Clerks written statement under Supreme Court Rule 65 (See 74020)         |                   |                       |
|   | (13) | Warrant for commitment   |                   |                       |
|   |      | Taveria, J.  |                   |                       |

**S.A. 2**

**EXHIBIT FF**

Massachusetts Department of Correction - [Booking Search - W\_ADM\_SCB]

| <input type="checkbox"/> Inmate  | <input type="checkbox"/> Adm.                    | <input type="checkbox"/> Bedding      | <input type="checkbox"/> Class   | <input type="checkbox"/> Criminal Pds. | <input type="checkbox"/> Date Cond. | <input type="checkbox"/> Medical | <input type="checkbox"/> Off. | <input type="checkbox"/> Prod. | <input type="checkbox"/> Work | <input type="checkbox"/> Release | <input type="checkbox"/> Schedule | <input type="checkbox"/> Security | <input type="checkbox"/> Update |
|--|--|---------------------------------------|----------------------------------|--|-------------------------------------|----------------------------------|-------------------------------|--------------------------------|-------------------------------|----------------------------------|-----------------------------------|-----------------------------------|---------------------------------|
| Commit #   | Last Name: <b>DONNELLY</b>                       | First Name: <b>GREG</b>               | Date of Birth: <b>1964-08-04</b> |  |                                     |                                  |                               |                                |                               |                                  |                                   |                                   |                                 |
| Race: <b>White</b>   | Hispanic: <input checked="" type="checkbox"/>    | Culture: <input type="checkbox"/>     | Sex: <b>M</b>                    |  |                                     |                                  |                               |                                |                               |                                  |                                   |                                   |                                 |
| State I.D. #   | FBI Number: <b>1234567890</b>                    | PCF #: <b>1234567890</b>              | INS Alert #: <b>1234567890</b>   |  |                                     |                                  |                               |                                |                               |                                  |                                   |                                   |                                 |
| Driver's License State:  | Driver's License #: <b>1234567890</b>            | Social Security #: <b>123-45-6789</b> |                                  |  |                                     |                                  |                               |                                |                               |                                  |                                   |                                   |                                 |
| Institution:   | Distinguishing Characteristic Type: <b>Color</b> | Immate Status: <b>Admit</b>           |                                  |  |                                     |                                  |                               |                                |                               |                                  |                                   |                                   |                                 |
| SEARCH RESULTS   |  |                                       |                                  |  |                                     |                                  |                               |                                |                               |                                  |                                   |                                   |                                 |
| Commit #   | Last Name  | First Name                            | MI/Initial                       | Institution                            | Birth Date                          | Status                           |                               |                                |                               |                                  |                                   |                                   |                                 |
| 217249   | DONNELLY   | GREGORY                               | M                                | DED COLUMBIA CORP                      | 1964-08-04                          | RELEASED                         |                               |                                |                               |                                  |                                   |                                   |                                 |
| 1447826  | DONNELLY   | GREGORY                               | M                                | MCLESHIRE STATE PRBLG                  | 1964-02-20                          | RELEASED                         |                               |                                |                               |                                  |                                   |                                   |                                 |
| 1447827  | DONNELLY   | GREGORY                               | M                                | DED COLUMBIA CORP                      | 1964-02-20                          | RELEASED                         |                               |                                |                               |                                  |                                   |                                   |                                 |
| (16) 3360  |  |                                       |                                  | 12/13/1997                             |                                     |                                  |                               |                                |                               |                                  |                                   |                                   |                                 |
| <a href="#">Details</a>   <a href="#">Booking Navigation</a>   <a href="#">Save</a>   <a href="#">Exit</a> |  |                                       |                                  |  |                                     |                                  |                               |                                |                               |                                  |                                   |                                   |                                 |

Record: 1/3

Massachusetts Department of Correction - [Sentence Info - WADM\_SEN]

|  |                                    |  |  |  |  |  |  |           |           |           |            |                                       |  |
|--|------------------------------------|--|--|--|--|--|--|-----------|-----------|-----------|------------|---------------------------------------|--|
| Admin  | Address                            | Region   | Class                                      | Medical Rds                                    | Date Comp.   | Medical 193  | Prob / Work                              | Release   | Schedule  | Society   | Today      | <input type="button" value="Print"/>  | <input type="button" value="X"/>                       |
| Select Inmate Commitment Number: C47732                      |                                    |  |  |  |  |  |  |           |           |           |            | <input type="button" value="Search"/> | <input type="button" value="Today's Date"/> 2005-08-14 |
| Name: DONNELL  | GREGORY                            | Comm #: C47732                                   | Loc: OLD COLONY CORRECTIONAL CENTER        | DOB: 1952-04-14                                |  |  |  |           |           |           |            |                                       |  |
| Status: RELEASED   | Unit Cell Block: UNASSIGNED        | Sec Level: E                                     | Enter #: 19800519                          | Per: 19800519                                  | Release Date: 1980-05-12   |  |  |           |           |           |            |                                       |  |
| <b>CHARGE INFORMATION</b>                                    |                                    |  |  |  |  |  |  |           |           |           |            |                                       |  |
| PC: 19820724   | Hatched Total Prod Min:            | Max:   | CD:  | Back/R:  | Mixed Date:  | Computation:   |  |           |           |           |            |                                       |  |
| <input type="button" value="Sentence Upd:"/>                 |                                    | <input type="button" value="New Sent:"/>         | Sentence Number: 1                         | <input type="button" value="New Sentence"/>    | <input type="button" value="Copy To New Sent"/>                    |  |  |           |           |           |            |                                       |  |
| <b>Sentence term:</b> Other Information History              |                                    |  |  |  |  |  |  |           |           |           |            |                                       |  |
| <b>SENTENCE INFORMATION</b>                                  |                                    |  |  |  |  |  |  |           |           |           |            |                                       |  |
| Docket #: 174020   | Offense #: 19800519                | Court: PLYMOUTH SC-BROCKTON                      | Term: 20                                   | Min: 15  | Max: 25  | Days: 142  | Eff. Date: 1980-07-25                    | Ref Date: | Min Date: | Max Date: | Probation: |                                       |  |
| Chapter: 265   | Section: 17                        | Sub Section:                                     | Category:                                  | Committed:                                     | Released:  |  |  |           |           |           |            |                                       |  |
| Paragraph: 1   | Sub Paragraph:                     |  |  |  |  |  |  |           |           |           |            |                                       |  |
| Type: Reformatory  | Def Def: ARMED ROBBERY             |  |  |  |  |  |  |           |           |           |            |                                       |  |
| Offense Date: 19800519                                       | Imposed Date: 19800505             | Invoked Date: 19800505                           | Time Served:                               | Time Off Credit:                               | Time while Incarcerated (H&C):                                     | Time while Incarcerated (DOC):                           | Effective Date: 1980-07-25               |           |           |           |            |                                       |  |
| From & After: #  | Fines:                             |  | Time Off Credit:                           | Time while Incarcerated (H&C):                 | Time while Incarcerated (DOC):                                     |  |  |           |           |           |            |                                       |  |
| Mand. Prob: <input type="checkbox"/>                         | Prob: <input type="checkbox"/>     | Sentence Committed: <input type="checkbox"/>     | Held At Sentence: <input type="checkbox"/> | Cime in Inter Period: <input type="checkbox"/> | Cime while Incarcerated: <input type="checkbox"/>                  | Cime while Incarcerated Stared: <input type="checkbox"/> | Cime On Escape: <input type="checkbox"/> |           |           |           |            |                                       |  |
| Overdue Invoked Date for FGT credits: 1980-02-27 (17-93) JMS |                                    |  |  |  |  |  |  |           |           |           |            |                                       |  |
| <input type="button" value="UNIT Previous"/>                 | <input type="button" value="New"/> | <input type="button" value="SENTENCE Previous"/> | <input type="button" value="Next"/>        | <input type="button" value="Clear"/>           | <input type="button" value="Arresting Agency Description Search"/> | <input type="button" value="Save"/>                      | <input type="button" value="Exit"/>      |           |           |           |            |                                       |  |
| Record 1 of 1  |                                    |  |  |  |  |  |  |           |           |           |            |                                       |  |

Massachusetts Department of Correction - [Sentence Info - W ADM SEN]

Adminstr. Advice Bed Mngt. Class Change Rds. Data Comp. Medical OVI Prop/Work Release Schedule Security Window

Select Inmate Community Number: N47828      Search      Today's Date: 8/26/2005 14:15

|                               |                |                            |                        |
|-------------------------------|----------------|----------------------------|------------------------|
| Name: DONNELLY, GREGORY       | Comm #: N47828 | Inst: MC SHIBBLEY (MEDIUM) | DOB: 13/01/240         |
| Spcials RELEASE Unit (24 bed) | 180451RNER     | Conv #: 16000154           | PC: 19960205           |
|                               |                |                            | Release Date: 19960814 |

**COMBINED RELEASE DATA**

|          |                       |               |          |          |                      |
|----------|-----------------------|---------------|----------|----------|----------------------|
| PE       | Handled Total App No: | Handled Date: | CD       | Released | Manual Date Computed |
| 19960205 | 19990606              | 19991205      | 19950814 |          |                      |

Sentence Unit:  New Unit:  Sentence Number:  New Sentence:  Copy To New Sent:

Sentence Term:  Other Information:  Discret.

**SENTENCE INFORMATION**

|   |   |   |  |  |  |
|---|---|---|--|--|--|
| Court: MIDDLESEX SUPERIOR COURT                                 | Offense Date: 1993-05-13                  | Imposed Date: 1993-05-13                            | Time Served: 1313                                      | Val Credits: 1313                              | Effective Date: 1993-08-08                               |
| Charged: 90   | Section: 24G                              | Sub Section: a                                      | Minimum: 10  | Spd: 6   | Re Date:   |
| Perspnal: <input checked="" type="checkbox"/>                   | Sub Paragraph: <input type="checkbox"/>   | Crime: <input type="checkbox"/>                     | Maximum: 10  |  |  |
| Type: State Prison  | Get Person: <input type="checkbox"/>      | Vehicular Homicide                                  | Estimated: <input type="checkbox"/>                    | Reason: <input type="checkbox"/>               |  |
| Offense Date: 1993-06-03  | Imposed Date: 1993-05-13                  | Invoked Date: 1993-05-13                            | Time Served: 1313                                      | Val Credits: 1313                              | Effective Date: 1993-08-08                               |
| From & After: <input type="checkbox"/>                          | Frist: <input type="checkbox"/>           | Came On Parole: <input checked="" type="checkbox"/> | Crime While Incarcerated FDC: <input type="checkbox"/> | Habuva: <input type="checkbox"/>               |  |
| Standby: <input checked="" type="checkbox"/>                    | Prob: <input checked="" type="checkbox"/> | Sentence Laminated: <input type="checkbox"/>        | Heck Acknowledg: <input type="checkbox"/>              | Crime On Prob Period: <input type="checkbox"/> | Crime While Incarcerated State: <input type="checkbox"/> |
| Override Invoked Date for EGJ Credits: <input type="checkbox"/> |   |   | Last Update: 2002-02-27 21:44:14                       | IMC: 2015                                      |  |

UNIT Previous:  Next:  SENTENCE Previous:  Next:  Clear:  Delete:  Existing Agency Description Search:  Save:  Exit:

Record 1 of 2

Massachusetts Department of Correction - [Sentence Info - W\_ADM\_SEN]

|   |                                      |                                |                                      |                                     |                                     |                                      |                                  |                                   |                                 |                                |                          |
|---|--------------------------------------|--------------------------------|--------------------------------------|-------------------------------------|-------------------------------------|--------------------------------------|----------------------------------|-----------------------------------|---------------------------------|--------------------------------|--------------------------|
| <input type="checkbox"/> Address  | <input type="checkbox"/> Birth Date  | <input type="checkbox"/> Class | <input type="checkbox"/> Crimed Fds. | <input type="checkbox"/> Date Comp. | <input type="checkbox"/> Medical QM | <input type="checkbox"/> Prob / Work | <input type="checkbox"/> Release | <input type="checkbox"/> Schedule | <input type="checkbox"/> Search | <input type="checkbox"/> Units |                          |
| Select Remote Commitment Number: W99660   |                                      |                                |                                      |                                     |                                     |                                      |                                  |                                   |                                 |                                |                          |
| Name: DONNELLY, GREGORY J. Commit: PCAGG01 Subloc: (OLD COLONY CORRECTIONAL CENTER) DOB: 11/24/19 |                                      |                                |                                      |                                     |                                     |                                      |                                  |                                   |                                 |                                |                          |
| State: RELEASE DATE: 4-9-04 Dismissed: Yes  |                                      |                                |                                      |                                     |                                     |                                      |                                  |                                   |                                 |                                |                          |
| RS:   | Heretel-Total Period:                | MAX:                           | G.D.:                                | Reports:                            | Marshall Date Comparison:           | Excluded:                            |                                  |                                   |                                 |                                |                          |
| 20020414  |                                      | 20060414                       | 20041231                             |                                     |                                     |                                      |                                  |                                   |                                 |                                |                          |
| Sentence Unit:  | New Unit:                            | Service Number:                |                                      | New Sentence:                       | Copy To New Sent:                   |                                      |                                  |                                   |                                 |                                |                          |
| Sentence Term: Other Information: History:  |                                      |                                |                                      |                                     |                                     |                                      |                                  |                                   |                                 |                                |                          |
| <b>SENTENCE INFORMATION</b>   |                                      |                                |                                      |                                     |                                     |                                      |                                  |                                   |                                 |                                |                          |
| Case #: #99-11105   | OBTRN #:                             | Court: SUFFOLK SUPERIOR COURT  |                                      |                                     | MINIMUM DAYS: MISSING DATE:         |                                      |                                  | TYPE:                             |                                 |                                |                          |
| Chapter: 90   | Section:                             | 24                             | SubSection:                          | 1                                   | Number:                             | 8                                    | Ref Date:                        |                                   |                                 |                                |                          |
| ParoleAct:  | Indictment:                          |                                | Category:                            | DUI                                 | Maximum:                            | 8                                    |                                  |                                   |                                 |                                |                          |
| Type:   | Offense Desc: DUI - Injury resulting |                                |                                      | Committed:                          |                                     |                                      |                                  |                                   |                                 |                                |                          |
| Offense Date:   | Imposed Date:                        | 20001201                       | Inlocked Date:                       | 20001201                            | Time Served:                        | 0                                    | Effective Date:                  | 20001201                          |                                 |                                |                          |
| From & After:   | Fines:                               |                                | Time Imprison:                       |                                     | Time while Incarcerated:            | 0                                    | Hours:                           |                                   |                                 |                                |                          |
| Mandatory:  | <input type="checkbox"/>             | Sentence Computed:             | <input type="checkbox"/>             | Heads Varied:                       | <input type="checkbox"/>            | Court On Page Period:                | <input type="checkbox"/>         | Time while Incarcerated Date:     | <input type="checkbox"/>        | Time On Escaped:               | <input type="checkbox"/> |
| Overdue Imprison Date for Cost Credit:  |                                      |                                |                                      |                                     |                                     |                                      |                                  |                                   |                                 |                                |                          |
| Last Update: 2005-01-11 10:37:33 (MS)   |                                      |                                |                                      |                                     |                                     |                                      |                                  |                                   |                                 |                                |                          |
| UNIT: Previous  | Next                                 | SENTENCE: Previous             | Next                                 | Clear                               | Print                               | Print                                | Arresting Agency                 | Description Search                | Save                            | Exit                           |                          |

Printed: 1/5

Inmate Sentence Listing  
C47732 DONNELLY, GREGORY N

Report Date: 2005 0825 14:17:02

## Sentence Unit: A

---

|           |          |               |    |  |     |
|-----------|----------|---------------|----|--|-----|
| Sent #: 1 | Statute: | 265           | 17 |  | 140 |
|           |          | ARMED ROBBERY |    |  |     |

---

|              |                      |        |  |      |          |
|--------------|----------------------|--------|--|------|----------|
| Off. Date:   | 19800519             |        |  |      |          |
| Sent. Type:  | Reformatory          |        |  | PE:  | 19820724 |
| Imposed:     | 19800905             |        |  | Min: |          |
| Invoked:     | 19800905             | TO 20Y |  | Max: | 20000724 |
| Jail Credit: | 42                   |        |  | Gcd: | 19920507 |
| Effective:   | 19800725             |        |  |      |          |
| Court:       | PLYMOUTH SC-BROCKTON |        |  |      |          |
| Docket:      | 74020                |        |  |      |          |

---

---

|           |          |     |     |   |     |
|-----------|----------|-----|-----|---|-----|
| Sent #: 2 | Statute: | 265 | 15A | b | 171 |
|-----------|----------|-----|-----|---|-----|

---

|              |                      |        |  |      |          |
|--------------|----------------------|--------|--|------|----------|
| Off. Date:   | 19800519             |        |  |      |          |
| Sent. Type:  | Reformatory          |        |  | PE:  | 19810724 |
| Imposed:     | 19800905             |        |  | Min: |          |
| Invoked:     | 19800905             | TO 10Y |  | Max: | 19900724 |
| Jail Credit: | 42                   |        |  | Gcd: | 19860615 |
| Effective:   | 19800725             |        |  |      |          |
| Court:       | PLYMOUTH SC-PLYMOUTH |        |  |      |          |
| Docket:      | 74021                |        |  |      |          |

---

---

|           |          |                 |    |  |     |
|-----------|----------|-----------------|----|--|-----|
| Sent #: 3 | Statute: | 265             | 19 |  | 150 |
|           |          | UNARMED ROBBERY |    |  |     |

---

|              |                      |        |  |      |          |
|--------------|----------------------|--------|--|------|----------|
| Off. Date:   | 19791128             |        |  |      |          |
| Sent. Type:  | Reformatory          |        |  | PE:  | 19820328 |
| Imposed:     | 19800929             |        |  | Min: |          |
| Invoked:     | 19800929             | TO 12Y |  | Max: | 19920928 |
| Jail Credit: | 0                    |        |  | Gcd: | 19870930 |
| Effective:   | 19800929             |        |  |      |          |
| Court:       | PLYMOUTH SC-BROCKTON |        |  |      |          |
| Docket:      | 73674                |        |  |      |          |

## Inmate Sentence Listing

C47732 DONNELLY, GREGORY N

Report Date: 2005 0825 14:17:02

## Sentence Unit: A

|           |          |                        |    |     |
|-----------|----------|------------------------|----|-----|
| Sent #: 4 | Statute: | 266                    | 28 | 523 |
|           |          | Theft of Motor Vehicle |    |     |

|              |                      |      |          |
|--------------|----------------------|------|----------|
| Off. Date:   | 19791128             | PE:  | 19810928 |
| Sent. Type:  | Reformatory          | Min: |          |
| Imposed:     | 19800929             | Max: | 19900928 |
| Invoked:     | 19800929 TO 10Y      | Gcd: | 19860726 |
| Jail Credit: | 0                    |      |          |
| Effective:   | 19800929             |      |          |
| Court:       | PLYMOUTH SC-BROCKTON |      |          |
| Docket:      | 73676                |      |          |

|           |          |         |    |   |     |
|-----------|----------|---------|----|---|-----|
| Sent #: 5 | Statute: | 269     | 10 | a | 615 |
|           |          | Firearm |    |   |     |

|              |                      |      |          |
|--------------|----------------------|------|----------|
| Off. Date:   | 19800704             | PE:  | 19811111 |
| Sent. Type:  | Reformatory          | Min: |          |
| Imposed:     | 19801112             | Max: | 19830511 |
| Invoked:     | 19801112 TO 2Y 6M    | Gcd: | 19820905 |
| Jail Credit: | 0                    |      |          |
| Effective:   | 19801112             |      |          |
| Court:       | PLYMOUTH SC-PLYMOUTH |      |          |
| Docket:      | 83290                |      |          |

|                                    |   |
|------------------------------------|---|
| 1 Years Probation Restrictions.    | 1 Years Earn Good Time Restrictions.      |
| 1 Years Work Release Restrictions. | 1 Years Statutory good Time Restrictions. |
| 1 Years Parole Restrictions.       | 1 Years Camp Time Restrictions.           |
|                                    | 1 Years Furlough Restrictions.            |

|           |          |         |    |   |     |
|-----------|----------|---------|----|---|-----|
| Sent #: 6 | Statute: | 269     | 10 | a | 615 |
|           |          | Firearm |    |   |     |

|              |                      |      |          |
|--------------|----------------------|------|----------|
| Off. Date:   | 19800704             | PE:  | 19811111 |
| Sent. Type:  | Reformatory          | Min: |          |
| Imposed:     | 19801112             | Max: | 19830511 |
| Invoked:     | 19801112 TO 2Y 6M    | Gcd: | 19820905 |
| Jail Credit: | 0                    |      |          |
| Effective:   | 19801112             |      |          |
| Court:       | PLYMOUTH SC-PLYMOUTH |      |          |
| Docket:      | 83291                |      |          |

|                                    |   |
|------------------------------------|---|
| 1 Years Probation Restrictions.    | 1 Years Earn Good Time Restrictions.      |
| 1 Years Work Release Restrictions. | 1 Years Statutory good Time Restrictions. |
| 1 Years Parole Restrictions.       | 1 Years Camp Time Restrictions.           |
|                                    | 1 Years Furlough Restrictions.            |

## Inmate Sentence Listing

C47732 DONNELLY, GREGORY N

Report Date: 2005 0825 14:17:02

## Sentence Unit: A

|           |                                  |     |    |     |
|-----------|----------------------------------|-----|----|-----|
| Sent #: 7 | Statute:                         | 266 | 49 | 512 |
|           | POSS. OF BURGLARIOUS INSTRUMENTS |     |    |     |

|              |                      |          |      |          |
|--------------|----------------------|----------|------|----------|
| Off. Date:   | 19800704             |          |      |          |
| Sent. Type:  | Reformatory          |          | PE:  | 19810511 |
| Imposed:     | 19801112             |          | Min: |          |
| Invoked:     | 19801112             | TO 2Y 6M | Max: | 19830511 |
| Jail Credit: | 0                    |          | Gcd: | 19820905 |
| Effective:   | 19801112             |          |      |          |
| Court:       | PLYMOUTH SC-PLYMOUTH |          |      |          |
| Docket:      | 83292                |          |      |          |

|           |                 |     |    |     |
|-----------|-----------------|-----|----|-----|
| Sent #: 8 | Statute:        | 265 | 19 | 150 |
|           | UNARMED ROBBERY |     |    |     |

|              |                        |        |      |          |
|--------------|------------------------|--------|------|----------|
| Off. Date:   | 19771125               |        |      |          |
| Sent. Type:  | Reformatory            |        | PE:  | 19810928 |
| Imposed:     | 19800929               |        | Min: |          |
| Invoked:     | 19800929               | TO 10Y | Max: | 19900928 |
| Jail Credit: | 0                      |        | Gcd: | 19860726 |
| Effective:   | 19800929               |        |      |          |
| Court:       | SUFFOLK SUPERIOR COURT |        |      |          |
| Docket:      | 019241                 |        |      |          |

| Paroled | Revoked | Returned | Escaped | Returned |
|---------|---------|----------|---------|----------|
|---------|---------|----------|---------|----------|

Combined dates as of 20020227 17:57

|                     |        |           |         |          |
|---------------------|--------|-----------|---------|----------|
| Time on parole:     | 0      | Original  | Revised | Adjusted |
| Dead time(parole):  | 0      | PE Date : |         | 19820724 |
| Dead time (escape): | 0      | Minimum : |         |          |
| Earned time:        | 198.50 | Maximum : |         | 20000107 |
| Forfeitures:        | .0     | GCD Date: |         | 19911021 |
| Restorations:       | .0     |           |         |          |

Inmate Sentence Listing  
 C47732 DONNELLY, GREGORY N

Report Date: 2005 0825 14:17:02

Sentence Unit: B

|           |          |    |    |   |   |       |
|-----------|----------|----|----|---|---|-------|
| Sent #: 1 | Statute: | 90 | 24 | 1 | A | 1 741 |
|-----------|----------|----|----|---|---|-------|

Subparagraph 1

|              |             |       |  |  |  |               |
|--------------|-------------|-------|--|--|--|---------------|
| Off. Date:   | 19871022    |       |  |  |  |               |
| Sent. Type:  | WORCESTER   |       |  |  |  | PE: 19900526  |
| Imposed:     | 19890825    |       |  |  |  | Min:          |
| Invoked:     | 19890825    | TO 2Y |  |  |  | Max: 19910526 |
| Jail Credit: | 90          |       |  |  |  | Gcd: 19901127 |
| Effective:   | 19890527    |       |  |  |  |               |
| Court:       | GARDNER DC  |       |  |  |  |               |
| Docket:      | 8763CR1939A |       |  |  |  |               |

Crime on Parole

| Paroled                             | Revoked | Returned | Escaped   | Returned |
|-------------------------------------|---------|----------|-----------|----------|
|                                     |         |          |           |          |
| Combined dates as of 20020227 18:12 |         |          |           |          |
| Time on parole:                     | 0       |          | Original  | Revised  |
| Dead time(parole):                  | 0       |          | PE Date : | Adjusted |
| Dead time (escape):                 | 0       |          |           | 19900525 |
| Earned time:                        | 112.50  |          | Minimum : |          |
| Forfeitures:                        | .0      |          | Maximum : | 19901108 |
| Restorations:                       | .0      |          | GCD Date: | 19900512 |

Inmate Sentence Listing  
 W47826 DONNELLY, GREGORY

Report Date: 2005 0825 14:18:29

Sentence Unit: A

Sent #: 1 Statute: 90 24G a 121  
 Vehicular Homicide

Off. Date: 19890603  
 Sent. Type: State Prison PE: 19960607  
 Imposed: 19930513 Min: 19991007  
 Invoked: 19930513 10Y TO 10Y 6M Max: 20000407  
 Jail Credit: 1313 Gcd: 19951215  
 Effective: 19891008  
 Court: \*MIDDLESEX SUPERIOR COURT  
 Docket: 89-2016

|                                    |                                      |
|------------------------------------|--------------------------------------|
| Crime on Parole                    | 1 Years Earn Good Time Restrictions. |
| 1 Years Probation Restrictions.    | 1 Years Statutory good Time          |
| 1 Years Work Release Restrictions. | Restrictions.                        |
| 1 Years Parole Restrictions.       | 1 Years Camp Time Restrictions.      |
|                                    | 1 Years Furlough Restrictions.       |

Sent #: 2 Statute: 90 24G a 121  
 Vehicular Homicide

Off. Date: 19890603  
 Sent. Type: State Prison PE: 19960607  
 Imposed: 19930513 Min: 19991007  
 Invoked: 19930513 10Y TO 10Y 6M Max: 20000407  
 Jail Credit: 1313 Gcd: 19951215  
 Effective: 19891008  
 Court: \*MIDDLESEX SUPERIOR COURT  
 Docket: 89-2017

|                                    |                                      |
|------------------------------------|--------------------------------------|
| Crime on Parole                    | 1 Years Earn Good Time Restrictions. |
| 1 Years Probation Restrictions.    | 1 Years Statutory good Time          |
| 1 Years Work Release Restrictions. | Restrictions.                        |
| 1 Years Parole Restrictions.       | 1 Years Camp Time Restrictions.      |
|                                    | 1 Years Furlough Restrictions.       |

|         |         |          |         |          |
|---------|---------|----------|---------|----------|
| Paroled | Revoked | Returned | Escaped | Returned |
|---------|---------|----------|---------|----------|

Combined dates as of 20020227 21:58

|                     |        | Original  | Revised | Adjusted |
|---------------------|--------|-----------|---------|----------|
| Time on parole:     | 0      |           |         |          |
| Dead time(parole):  | 0      | PE Date : |         | 19960205 |
| Dead time (escape): | 0      |           |         |          |
| Earned time:        | 122.50 | Minimum : |         | 19990606 |
| Forfeitures:        | .0     | Maximum : |         | 19991206 |
| Restorations:       | .0     | GCD Date: |         | 19950814 |

Inmate Sentence Listing  
 W68860 DONNELLY, GREGORY M

Report Date: 2005 0825 14:09:36

Sentence Unit: A

Sent #: 1 Statute: DUI 90 24L 1 741  
 DUI - Injury resulting

Off. Date: 19890603  
 Sent. Type: State Prison PE: 20021130  
 Imposed: 20000127 Min: 20061130  
 Invoked: 20001201 Max: 20081130  
 Jail Credit: 0 Gcd: 20050818  
 Effective: 20001201  
 Court: SUFFOLK SUPERIOR COURT  
 Docket: 99-11105

6 Months Earn Good Time Restrictions.  
 6 Months Probation Restrictions.  
 6 Months Work Release Restrictions.  
 6 Months Parole Restrictions.  
 6 Months Camp Time Restrictions.  
 6 Months Furlough Restrictions.

Sent #: 2 Statute: 2ND 90 24 2 a 710  
 USING M/V WITHOUT AUTHORITY

Off. Date: 19990806  
 Sent. Type: MIDDLESEX PE:  
 Imposed: 20020402 Min:  
 Invoked: TO 2Y 6M Max:  
 Jail Credit: 0 Gcd:  
 Effective: F&A 1  
 Court: MIDDLESEX CAM SUP CRT  
 Docket: MICR-1999-1193-001  
 Held As Warrant Statutory good Time Restrictions.

Sent #: 3 Statute: 265 15B b 171  
 ASSAULT BY MEANS OF DANGEROUS WEAPON

Off. Date: 19990806  
 Sent. Type: MIDDLESEX PE:  
 Imposed: 20020402 Min:  
 Invoked: TO 2Y 6M Max:  
 Jail Credit: 0 Gcd:  
 Effective: F&A 1  
 Court: MIDDLESEX CAM SUP CRT  
 Docket: MICR-1999-1193-002  
 Held As Warrant Statutory good Time Restrictions.

## Inmate Sentence Listing

W68860 DONNELLY, GREGORY M

Report Date: 2005 0825 14:09:36

Sentence Unit: A

|           |          |     |    |    |   |   |       |
|-----------|----------|-----|----|----|---|---|-------|
| Sent #: 4 | Statute: | 1ST | 90 | 24 | 1 | a | 1 741 |
|-----------|----------|-----|----|----|---|---|-------|

DUI, 1ST, EFF. 5-27-94

Off. Date: 19990806  
 Sent. Type: MIDDLESEX  
 Imposed: 20020402  
 Invoked: TO 2Y 6M  
 Jail Credit: 0  
 Effective: F&A 1  
 Court: MIDDLESEX CAM SUP CRT  
 Docket: MICR-1999-1193-004  
 Held As Warrant

|           |          |    |    |     |
|-----------|----------|----|----|-----|
| Sent #: 5 | Statute: | 90 | 23 | 710 |
|-----------|----------|----|----|-----|

OPER. M/V AFTER SUSP. OR REV. OF LICENSE

Off. Date: 19990806  
 Sent. Type: MIDDLESEX  
 Imposed: 20020402  
 Invoked: TO 2Y 6M  
 Jail Credit: 0  
 Effective: F&A 1  
 Court: MIDDLESEX CAM SUP CRT  
 Docket: MICR-1999-1193-006  
 Held As Warrant                           60 Days Earn Good Time Restrictions.  
 60 Days Probation Restrictions.         Statutory good Time Restrictions.  
 60 Days Work Release Restrictions.  
 60 Days Parole Restrictions.             60 Days Furlough Restrictions.

|         |         |          |         |          |
|---------|---------|----------|---------|----------|
| Paroled | Revoked | Returned | Escaped | Returned |
|---------|---------|----------|---------|----------|

Combined dates as of 20050111 13:48

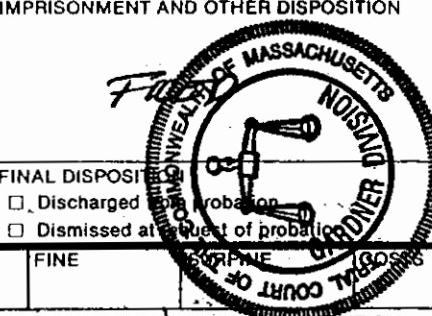
|                     |        | Original  | Revised  | Adjusted |
|---------------------|--------|-----------|----------|----------|
| Time on parole:     | 0      |           |          |          |
| Dead time(parole):  | 0      | PE Date : | 20021130 | 20020414 |
| Dead time (escape): | 0      | Minimum : | 20061130 | 20060414 |
| Earned time:        | 230.00 | Maximum : | 20081130 | 20080414 |
| Forfeitures:        | .0     | GCD Date: | 20050818 | 20041231 |
| Restorations:       | .0     |           |          |          |

**EXHIBIT GG**

|  |   |
|--|---|
| COURT DIVISION<br>Gardner                  | NAME, ADDRESS AND ZIP CODE OF DEFENDANT<br><br>Gregory Donnelly<br>Unknown address<br>112 Main St.<br>Westminster, MD 21704 |
| DEF. DOB<br>12-30-58                       | OFFENSE CODE(S)<br>40/111/000 /116  |
| DATE OF OFFENSE<br>10/22/87                | PLACE OF OFFENSE<br>Westminster   |
| COMPLAINANT<br>Robert Cudak (Hawkins, Jr.) | POLICE DEPARTMENT<br>Westminster  |
| DATE OF COMPLAINT<br>11/1/87               | RETURN DATE AND TIME<br>Warrant   |

| TERMS OF RELEASE |   | 11/18/87 ret'd Chk #34141242<br>\$5,000 1/5 or 50% each By Surety |  |
|------------------|---|---|--|
| DATE             | PROCEEDING  |   |  |
| 11-18-87         | <input checked="" type="checkbox"/> Arraigned before J. PHILBIN<br><input checked="" type="checkbox"/> Advised of right to counsel<br><input type="checkbox"/> Advised of right to drug exam<br><input type="checkbox"/> Advised of right to bail review<br><input checked="" type="checkbox"/> Advised of right to F.I. Jury Trial<br><input checked="" type="checkbox"/> Waives <input type="checkbox"/> Requests F.I. Jury Trial<br><input type="checkbox"/> Warrant issued <input type="checkbox"/> Default warrant issued<br><input type="checkbox"/> Default removed <input type="checkbox"/> Warrant recalled<br><input type="checkbox"/> Warrant issued <input type="checkbox"/> Default warrant issued<br><input type="checkbox"/> Default removed <input type="checkbox"/> Warrant recalled |   |  |

|   |  |  |      |         |                       |                 |
|---|--|--|------|---------|-----------------------|-----------------|
| COUNT-OFFENSE<br>A. OPERATING UNDER THE INFLUENCE OF LIQUOR C90 S24 |  |  | FINE | SURFINE | <del>DISP</del><br>25 | TOTAL DUE<br>25 |
| DATE<br>11-18-87  | PLEA<br><input checked="" type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty <input type="checkbox"/> Nolo | IMPRISONMENT AND OTHER DISPOSITION<br><i>2 years HC 90 days to be 1-15<br/>Served FORTHWITH w/o PROBATION<br/>2 years TO 1-15-90 - BAL-Susp.<br/>NO APPEAL</i> |      |         |                       |                 |
|   | <input type="checkbox"/> New Plea: <input type="checkbox"/> Admits suff. facts                                       |  |      |         |                       |                 |
| FINDING<br>1-15-88  | G  | JUDGE<br>PHILBIN   |      |         |                       |                 |
|   | <input type="checkbox"/> Cont. w/o finding until:  | FINAL DISPOSITION<br><input type="checkbox"/> Discharged from probation<br><input type="checkbox"/> Dismissed at request of probation                          |      |         |                       | DATE            |
|   | <input type="checkbox"/> Appeal of find. & disp. <input type="checkbox"/> Appeal of disp.                            |  |      |         |                       |                 |



|   |  |  |   |       |           |
|---|--|--|---|-------|-----------|
| COUNT-OFFENSE<br><b>B. OPERATING A MV WITHOUT A LICENSE C90 S10</b> |  | FINE   | SURFINE   | COSTS | TOTAL DUE |
| DATE<br><b>11-18-87</b>   | PLEA<br><input checked="" type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty <input type="checkbox"/> Nolo | IMPRISONMENT AND OTHER DISPOSITION   |   |       |           |
|   | <input type="checkbox"/> New Plea: <input type="checkbox"/> Admits suff. facts                                       |  |   |       |           |
| <b>1-15-88</b>  | FINDING<br><b>G</b>  | JUDGE<br><b>PHILBIN</b>  |  <p>The seal of the Commonwealth of Massachusetts is circular. The outer ring contains the text "THE COMMONWEALTH OF MASSACHUSETTS" at the top and "SEAL" at the bottom. The inner circle features a central figure holding a sword and shield, with the word "INDEPENDENCE" written vertically along the left side.</p> |       |           |
|   | <input type="checkbox"/> Cont. w/o finding until:  | FINAL DISPOSITION  |   |       |           |
|   | <input type="checkbox"/> Appeal of find. & disp. <input type="checkbox"/> Appeal of disp.                            | <input type="checkbox"/> Discharged on probation<br><input type="checkbox"/> Dismissed at request of probation |   |       |           |
|   |  | DATE <b>1-15-88</b>  |   |       |           |

|   |  |  |                |       |
|---|--|--|----------------|-------|
| COUNT-OFFENSE<br><b>C.GIVE FALSE NAME PO C268 S34</b> |  | FINE   | TOTAL DUE      |       |
|   |  |  |                |       |
| DATE<br><b>11-18-87</b>                               | PLEA<br><input checked="" type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty <input type="checkbox"/> Nolo<br><br><input type="checkbox"/> New Plea: <input type="checkbox"/> Admits suff. facts | IMPRISONMENT AND OTHER DISPOSITION   |                |       |
| <b>1-15-88</b>  | FINDING<br><b>G</b>  | JUDGE<br><b>PHILBIN</b>  | <i>FILED D</i> |       |
|   | <input type="checkbox"/> Cont. w/o finding until:<br><br><input type="checkbox"/> Appeal of find. & disp.  | FINAL DISPOSITION  |                |       |
|   | <input type="checkbox"/> Appeal of disp.   | <input type="checkbox"/> Discharged from probation<br><input type="checkbox"/> Dismissed at request of probation |                |       |
| COUNT-OFFENSE   |  | FINE   | SURFEE         | COSTS |
|   |  | TOTAL DUE  |                |       |



FILED

|  |  |  |        |       |           |
|--|--|--|--------|-------|-----------|
| COUNT-OFFENSE<br><b>D OP. AFTER LIC. OR RT. TO OP. REV?, C90-S23</b>   |  | FINE   | SURFNE | COSTS | TOTAL DUE |
| DATE<br><b>11-18-87</b>  | <b>PLEA</b><br><input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty <input type="checkbox"/> Nolo<br><br><input type="checkbox"/> New Plea: <input type="checkbox"/> Admits suff. facts | <b>IMPRISONMENT AND OTHER DISPOSITION</b><br><i>60 day's H.C. concurrent<br/>w/ "A"</i>  |        |       |           |
| FINDING<br><b>I-15-88</b>  | JUDGE<br><b>G PHILBIN</b>  |  |        |       |           |
| <input type="checkbox"/> Cont. w/o finding until:<br><br><input type="checkbox"/> Appeal of find. & disp. <input type="checkbox"/> Appeal of disp. |  | <b>FINAL DISPOSITION</b><br><input type="checkbox"/> Discharged from probation<br><input type="checkbox"/> Dismissed at request of probation |        | DATE  |           |

| CONT. TO | PURPOSE                 | CONT. TO | PURPOSE                   |
|----------|-------------------------|----------|---------------------------|
| 1-18-87  | enquiry                 |          |                           |
| 1-15-88  | Prob.                   |          | <b>NOTIFY COMPLAINANT</b> |
| 1-15-90  | Prob-                   |          |                           |
| 7-19-89  | S/T                     |          |                           |
| 7-26-89  | S of Hale L. M. Conceal |          | <b>S.</b>                 |

| DATE    | TAPE NO.            | START   | STOP |
|---------|---------------------|---------|------|
| 8-22-89 | S.H. - NEED HAB MC1 | CONCORD |      |
| 8-25-89 | S.H. - NEED HAB MC1 | CONCORD |      |
| 17      |                     |         |      |

| DATE     | DOCKET ENTRIES                                  |   |
|----------|---|---|
| 11-17-87 | Warrant Returned                                |   |
| 11-17-87 | Mit Drawn                                       |   |
| 11-18-87 | CONT. TO 1-15-1988 FOR TRIAL                    |   |
|          | NOTIFY COMPLAINANT                              | 2080A028 11/18/87 BAIL 500.00   |
| 11-19-87 | Letter sent Chf Ctral w/ trial date of 1/15/88  | \$20  |
| 1-15-88  | NEED M/T  |   |
| 1-15-88  | Mit drawn                                       | 4810A028 01/15/88 VWF 25.00   |
| 1-19-88  | RECEIVED M/T 1-19-88                            |   |
| 7-7-87   | Notice of Surrender Filed for 7-19-87           |   |
| 7-11-87  | Habeas sent WHC Returnable 7-19-87              |   |
| 7-19-87  | S.H. Court 7-26-87 - Send Habeas MCI Concord.   |   |
| 7-19-87  | Habeas sent MCI Concord returnable 7/26/87      |   |
| 7-27-87  | Habeas sent MCI Concord Returnable 8-2-87       |   |
| 8-2-87   | S.H. 8-25-87 NEED HAB FOR 8-25-87 MCI CONCORD   |   |
| 8-2-87   | Habeas sent to MCI Concord w/ date of 8/25/87   |   |
| 8-25-87  | COURT FINDS DEFENDANT IN VIOLATION OF PROBATION | BAL of Sentence ordered   |
|          | executed 2 years less 20 days                   |   |
|          | LODGE NOT AT MCI CONCORD                        |   |
|          | NEED M/T - Mit Drawn                            |   |
|          |   |  |
|          | A TRUE COPY:                                    |   |
|          | ATTEST: <u>W.M.C.</u>                           |   |
|          | Clerk-Magistrate/Ass't Clerk                    |   |

**EXHIBIT HH**

## ADMINISTRATIVE CHRONOLOGY

NAME Donnell, GregoryIDENTIFIER: C-47732

| Date                              |   |
|-----------------------------------|---|
| 19-8-88                           | Placed to Residential Alcohol Program (cr)  |
| ✓ 6-19-89                         | Revoked   |
| ✓ 6-20-89                         | Ret (effect: 6-6-89)  |
| 7/28/89<br>7-31-89 (d)<br>8-11-89 | Concord Class bd, Gardner VOTE 3/0<br>Cambridge S.C. + Ret'd (# 89-2014 to 89-2022) Placed Guilty to Manslaughter             |
| 8-14-89                           | Concord D.C. + Ret'd (# 8947CE1562)   |
| 8-14-89                           | SUPERINTENDENT'S DECISION: NCCI-GARDNER   |
| 8-14-89                           | COMMISSIONER'S DECISION: NCCI-GARDNER   |
| 8-14-89                           | TRANSFER TO: NCCI-GARDNER   |
| 8/21/89                           | Quarantine at need  |
| 8/21/89                           | Hold - Thayer Hall, Mw 1/90, release (C.O.P.)   |
| 8-25-89                           | To Gardner DC cont'd (# 8763CA1939) probation revoked.<br>( <del>cont'd until 12-11-89</del> ) 2 yrs H/C DC (with rev'd) (96) |
| 9-6-89                            | To Camb SC cont'd (# 892014) Cont'd 9-29-89 (at)  |
| 9-29-89                           | To Cambridge SC + Ret'd; # 89-2014 cont'd 10-5-89 (d)   |
| 10-25-89                          | Habe to Cambridge SC + Ret'd; # 89-2014 cont'd 10-17-89 (d)   |
| 11-17-89                          | Habe To Cambridge SC + RET'D; # 89-2014.  |
| 11-20-89                          | To Habe To Cambridge SC + RET'D;  |
| 12-4-89                           | Habe to Cambridge SC. + ret'd; # 89-2014 Cont'd until 12/11/89 same   |
| 12-11-89                          | To Cambridge Sup. Ct. & remanded. (cr) (pa)   |
| 1-10-80                           | returned from remand.   |
| 1-24-90 <del>✓</del>              | Rec'd folkwill to Mr. Ansore CDD 4/15/95  |
| 2-12-94                           | Trans Mr. Shirley and (d)   |
| 5-1-95                            | NTR Bd: rec. remand at NCI-Shirley (med), Nov. 11/95  |
| 10-25-95                          | <del>Parole Board (offic). Parole denied. AR 7/96</del>   |
| 11-17-95                          | <del>UNIT TEAM RECOMMENDS Remote placement + DT SMCC. Rev 5-96</del>  |

EXHIBIT "8-A"

L1

ADMINISTRATIVE CHRONOLOGY

NAME:

Donnelly Gregory

NUMBER:

C 47732

| DATE    | DETAILS   |
|---------|---|
| 1-9-95  |   |
| 3-29-95 | GRL COD to Concord Sentenee 4/15/95<br>on P.V. warrant (eff 1-9-95)   |
| 5-1-95  | Habe <u>Lower SC + rets</u> MICV 90-0183-<br>Crossed Habe to be forwarded<br>Unit Team recommends remise<br>Sh med. Rcv 11/95 |
| 5-10-95 | Supers decision: remain Sh (med)  |
| 5-17-95 | Dr habe to Lower SC + rets.   |
| 5-25-95 | MICV 90-01833. Cont - no date<br>Habe to Cambridge S.C. & rets.<br>MICV 95-0233 Civil - under<br>advisement. Remain           |
| 5-15-95 | Supers decision. modified from<br>Thirty (m), screen #9 program 57%<br>from thirty (m)  |
| 1-10-96 | QRT update  |
| 1-10-96 | Habe to Comb. Sup Court - take and<br>advisement  |
| 2-6-96  | GRL   |

ADMINISTRATIVE CHRONOLOGYNAME: Ronnelly, GregoryIDENTIFIER: C47732

| DATE    | INITIALS |   |
|---------|----------|---|
| 8-2-96  | MP       | PBV - Reserve after completion of CRP program<br>S/D, S/G/J/J frequent Warrant, Report to Probation of day of release, <del>Probation</del> - Reserve until before 9-30-96 (frequent attorney, all money work work 2 weeks) |
| 8-20-96 | JPS      | Qd I updated  |
| 8-27-96 | JPS      | CL Bd rec remain dec & reserve date to 2/97   |
| 7-12-96 | RB       | Commissioner Approved Class Board of 2-16-  |
| 9/20/96 | (m)      | Met w/ Attorney Ed Gaffney<br>Attorney given copies of<br>Adm. Chronology C47732<br>w/ Parole consent<br>copy PV warrant<br>copy memo re: PV warrant<br>executed<br>Copy Sentence Filing W 47824<br>(hr)                    |
| 9-23-96 | RB       | Superintendent Approved Class Bd of 8-29  |
| 10-2-96 | mc       | Paroled   |
| 11-5-96 | Stt      | Depart & prior Depart and Mutt sent to<br>MCI-Concord Archives  |

## ADMINISTRATIVE CHRONOLOGY

Name: Donnelly, Gregory

Identifier: C4725

| Date     | Initial |  |
|----------|---------|--|
| 7-19-98  | SH      | Revoked  |
| 7-22-98  | SH      | R&D to con (eff 7-22-98)   |
| 8-25-98  | SD      | Sent Sentence listing And D.F.S. Sheet<br>Inmate and folder Audit.   |
| 9-1-98   | GP      | Held to Minsham 01/01<br>Case Dismissed - not Gov't net # 9858cc13,8 |
| 10-16-98 | RL      | CCC Board Recommends MCI Plymouth(3+0)                               |
| 10-26-98 | CL      | SUPERINTENDENT'S DECISION: Plymouth                                  |
| 11-5-98  |         | COMMISSIONER'S DECISION: Appointed Plymouth Minimum                  |
| 11-23-98 | CL      | Transferred to Plymouth Minimum                                      |
| 12-18-98 | DM      | Paroled  |
| 8-19-99  |         | Revoked  |
| 8-19-99  |         | Get'd Concord (eff: 8-10-99)   |
| 9-15-99  | KS      | Dates SENT / folder Audited  |
| 8-12-99  | GP      | Marboro 01 + net 99-1184 - cont no date                              |
| 9-3-99   | GP      | Marboro 01 + net 99-1184 - cont 11-6-99                              |
| 9-24-99  | CG      | CCC Board recommends 3-0 NCC II(4)                                   |
| 9-28-99  | CG      | CAM SK + net Cont 11-3-99  |
| 10-18-99 | KJ      | SUPERINTENDENT'S DECISION: NOR Level 4                               |
| 10-15-99 | KS      | COMMISSIONER'S DECISION: MCI NORFOLK Level 4                         |
| 11-2-99  | GP      | SSC + net 99-11105 - Cont 11-30-99                                   |
| 12-4-99  | CL      | Final Placement Concord PWI Level 4                                  |

**EXHIBIT II**

# Commonwealth of Massachusetts

MIDDLESEX, TO WIT:

At the SUPERIOR COURT, begun and holden  
at the CITY OF CAMBRIDGE, within and for the County of Middlesex,  
on the First Monday of July in the year of our  
Lord one thousand nine hundred and eighty -nine

THE JURORS for the COMMONWEALTH OF MASSACHUSETTS on their oath present, That  
Gregory M. Donnelly

on the Third day of June  
in the year of our Lord one thousand nine hundred and eighty -nine  
at Concord, in the County of Middlesex aforesaid,

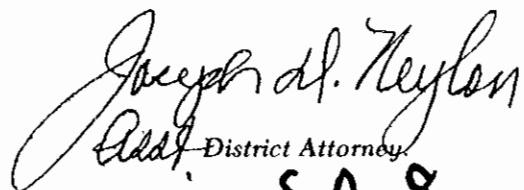
did operate a motor vehicle upon a way, as defined in General Laws Chapter 90 Section 1, or in a place to which the public has a right of access or upon a way or in a place to which the public has access as licensees or invitees, while under the influence of intoxicating liquor, and did operate said motor vehicle negligently so that the lives or safety of the public might be endangered, and by such operation so described did cause the death of another person, to wit: Steven Danielson.

Against the peace of said Commonwealth, and contrary to the form of the statute in such case made and provided.

A true bill.

  
Paul P. O'Connor

Foreman of the Grand Jury.

  
Joseph D. Leyden  
Addy District Attorney

S.A. 8

PLEA RETRACTED AND PLEA GUILTY  
OFFERED AND ACCEPTED BY THE COURT  
COMMONWEALTH MOVES FOR SENTENCE.

SENTENCE MASSACHUSETTS CORRECTIONAL  
INSTITUTION  
Chestnutte  
END A TERM NOT FORWARDED TO.

Ch 90 S24G  
M/V Hom - OUIL

COMMONWEALTH  
vs.  
[REDACTED]

1990 Jan 24  
Defendant has been notified by Clerk in open  
Court of his right to appeal sentence this day  
Imposed to the "Appellate Division of the Su-  
perior Court" for a review of sentence as provided  
by G.L. Chap. 278, Sec. 28A, B.C.  
(D.M. 11/24/93)

Ch 90 S24G  
M/V Hom - OUIL

1990 Jan 24  
Defendant has been notified by Clerk in open  
Court of his right to appeal sentence this day  
Imposed to the "Appellate Division of the Su-  
perior Court" for a review of sentence as provided  
by G.L. Chap. 278, Sec. 28A, B.C.  
(D.M. 11/24/93)

Deft. [REDACTED] RECENTLY RELEASED FROM INCARCERATION  
Disposition can't be  
done 24, 1990 at 200 Court Rm.  
JAN 24, 1990 (SUSPENDED)  
9B. (SUSPENDED)  
By the Court Gary M. Morris  
Mr. Hugh J. Clark  
\* \* \* \* \*

9B. (SUSPENDED)  
By the Court Gary M. Morris  
Mr. Hugh J. Clark  
\* \* \* \* \*

Gregory M. Donnelly

SUPERIOR COURT, July sitting, 1989  
6/7/90 day — Returned by the Grand Jury  
and filed in Court.

JAN 24 1990

Gary M. Morris  
Ass't. Clerk.

9B. (SUSPENDED)  
By the Court Gary M. Morris  
Mr. Hugh J. Clark  
\* \* \* \* \*

SENTENCE MASSACHUSETTS CORRECTIONAL  
INSTITUTION, [REDACTED] Cedar Junction

FOR A TERM NOT EXCEEDING 15  
COURSES, [REDACTED] VACANCY OR TERM  
THAN [REDACTED] 13 OR 14 MONTHS.  
NOTWITHSTANDING THE FOREGOING,  
DEFENDANT IS TO BE HELD IN CUSTODY UNTIL  
THE COURT TO HAVE CONVENIENCED

THIS SENTENCE IS DEFERRED BY [REDACTED]  
THE COURT TO HAVE CONVENIENCED  
1990 Jan 8  
After Charge and before deliberation  
Jurors Name and No.  
2-4 [REDACTED]  
6-13 [REDACTED]

1990 Jan 8  
After Charge and before deliberation  
Jurors Name and No.  
2-4 [REDACTED]  
6-13 [REDACTED]

PLEA RETRACTED AND PEA GUILTY  
OFFERED AND ACCEPTED BY THE COURT  
COMMONWEALTH MOVES FOR SENTENCE,  
SENTENCE MASSACHUSETTS CORRECTIONAL

INSTITUTION. Chancery Court

FOR A TERM NOT EXCEEDING Five &  
a half 10 1/2 YEARS OR LESS

THAT Two (2) YEARS  
The defendant to take effect  
sentence not on the day  
of sentence now being served  
at Mr. C. T. Gresham  
THIS SENTENCE IS DEEMED BY

that I will  
Asst. Clerk.

COMMONWEALTH

vs.

Gregory M. Donnelly

SUPERIOR COURT, July sitting, 1989  
6TH day - Returned by the Grand Jury  
and filed in Court.

for trial at 9:00  
Ass't Clerk.

1989 Jun 8 Dftr<sup>t</sup> arraigned

and severally pleads not guilty.

1989 Jun 8

A ~~jury~~ is empanelled, viz:  
1989 NOVEMBER 20  
CONTINUED UNTIL DECEMBER 11, 1989  
FOR TRIAL AT 9:00.

1989 Jun 8  
After Charge and before deliberation  
Jury Name and No.

2-4 George  
6-13 John  
2-16 Stephen  
4-19 James

Were withdrawn from panel, Ch.234A, S44

as arraigned

By the Court  
(me Hargrave)

George M. Hargrave  
Asst. Clerk

1990 Jan 10

Verdict - GUILTY  
Conv. in name of sentence

S. A. 10

Murphy to be Chairman of  
ASSISTANT CLERK

19 9.3 May 1, 1990

Defendant has been certified by Clerk in open  
Court of his right to appeal sentence this day  
imposed to the Appellate Division of the Su-  
perior Court for review of sentence imposed  
by S.L. Clerk, 278, SPC. 28A.B.C.  
Q. Gresham, Jr.

Q. Gresham, Jr.

# Commonwealth of Massachusetts

MIDDLESEX, TO WIT:

At the SUPERIOR COURT, begun and holden  
at the CITY OF CAMBRIDGE, within and for the County of Middlesex,  
on the First Monday of July in the year of our  
Lord one thousand nine hundred and eighty -nine

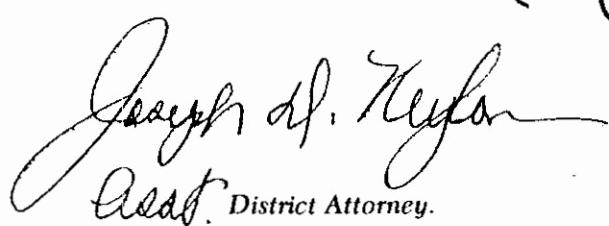
THE JURORS for the COMMONWEALTH OF MASSACHUSETTS on their oath present, That  
Gregory M. Donnelly

on the Third day of June  
in the year of our Lord one thousand nine hundred and eighty-nine  
at Concord, in the County of Middlesex aforesaid,  
did operate a motor vehicle upon a way, as defined in General Laws  
Chapter 90 Section 1, or in a place to which the public has a right  
of access or upon a way or in a place to which the public has access  
as licensees or invitees, while under the influence of intoxicating  
liquor, and did operate said motor vehicle negligently so that the  
lives or safety of the public might be endangered, and by such  
operation so described did cause the death of another person, to wit:  
David Danielson.

Against the peace of said Commonwealth, and contrary to the form of the statute in such case  
made and provided.

A true bill.

  
Paul P. Chappie  
*Foreman of the Grand Jury.*

  
Joseph A. Kefan  
*Asst. District Attorney.*

S.A. 11

89-2017

Sentencing for you on  
Jan. 24, 1990, in this court  
assisted by the Clerk

Ch 90 S24G  
My Ham-Quill

COMMONWEALTH

ASSISTANT CLERK

vs.  
Gregory M. Donnelly

BY THE COURT  
DAYS MITTS ISSUED

MAVING BEEN IN CONFINEMENT  
NO.

THE DEFENDANT

THIS SENTENCE IS DEEMED BY  
THE COURT TO HAVE COMMENCED

BY THE COURT  
DAYS MITTS ISSUED

THIS A TERM NOT EXCEEDING  
YEARS OR LESS

S. A. 12

SENTENCE — FOR A TERM NOT EXCEEDING

INSTITUTION — John Jordan  
15'

FOR A TERM NOT EXCEEDING  
13 YEARS  
YEARS OR LESS

This sentence to take effect from and after the  
expiration of the sentence imposed this day in #89-22016  
THIS SENTENCE IS DEEMED BY  
THE COURT TO HAVE COMMENCED  
ON —, THE DEFENDANT  
HAVING BEEN IN CONFINEMENT  
4 DAYS. MITTS ISSUED  
BY THE COURT

The Hugh J. Keay Jr. Esq.  
ASSISTANT CLERK  
19 20 Jan 24  
Defendant has been notified by Clerk in open  
Court of his right to appeal sentence of this Su-  
perior Court for a review of sentence as provided  
by G.L. Chap. 278, Sec. 28A E.C.  
( The Hugh J. Keay Jr.)  
+ notified right of appeal defendant.

Was withdrawn from panel Ch 234A S44  
as empanelled

By the Court  
John J. Keay

Asst. Clerk  
John J. Keay Jr.

1990 Jan 10  
Verdict - Guilty  
Conv. moves for sentence  
Court to Jan 24 1990 for day

1990 PLEA &amp; S. &amp; S.

Sentencing Transcript  
Dec. 24, 1990, in this case  
Robert M. Lawrence

Ch 90 S 246  
MV Hom-Quill

COMMONWEALTH

N.Y. SENTENCE L.

vs.  
Gregory M. Donnelly

SENTENCE MASSACHUSETTS CORRECTIONAL  
INSTITUTION, Dedham

FOR A TERM NOT EXCEEDING

15 YEARS OR LESS  
THAN 13 YEARS

to Run concurrent with D.I.

Entered 11/10/89 at 10:50 AM

H 89-2016

SENTENCE IS DEEMED BY

COURT TO HAVE COMMENCED

ON

THE DEFENDANT

WITNESS TO COMMENCEMENT

39 MITS ISSUED

THE COURT

39 MITS ISSUED

THE DEFENDANT

Robert J. Treadwell, Lawyer

ASSISTANT CLERK

1993 May 12

Sent Adelais a Minot

By the Court

Robert J.

Commonwealth for sentence

PLEA RETRACTED AND PLEA GUILTY  
OFFERED AND ACCEPTED BY THE COURT  
COMMONWEALTH MOVES FOR SENTENCE.

SENTENCE MASSACHUSETTS CORRECTIONAL  
INSTITUTION, Dedham

FOR A TERM NOT EXCEEDING Ten

A total of 10 1/2 years or less  
than ten (10) years

This sentence to be served concurrently with  
the sentence imposed this day in # 89-2016

THIS SENTENCE IS DEEMED BY

THE COURT TO HAVE COMMENCED

ON \_\_\_\_\_ THE DEFENDANT

HAVING BEEN IN CONFINEMENT

1174 DAYS MITS ISSUED

BY THE COURT

Robert J. Treadwell  
ASSISTANT CLERK

1993 May 13

Defendant has been notified by Clerk in open  
Court of his right to appeal sentence this day  
imposed to the Appellate Division of the Su-  
perior Court for a review of sentence as provided  
by G.L. Ch. 278, Sec. 264, B.C.

(Plaintiff, Robert J.)

George M. Lawrence  
Asst. Clerk

1990 Jan 10

Verdict - Guilty

Commonwealth for sentence

# Commonwealth of Massachusetts

MIDDLESEX, TO WIT:

At the SUPERIOR COURT, begun and holden

at the CITY OF CAMBRIDGE,

within and for the County of Middlesex,

on the First

Monday of July in the year of our

Lord one thousand nine hundred and eighty -nine

THE JURORS for the COMMONWEALTH OF MASSACHUSETTS on their oath present, That  
Gregory M. Donnelly

on the Third

day of June

in the year of our Lord one thousand nine hundred and eighty -nine

at Concord

, in the County of Middlesex aforesaid,

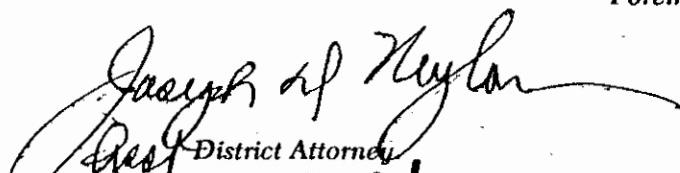
did operate a motor vehicle upon a way, as defined in General Laws Chapter 90 section 1, or in a place to which the public has access or upon a way or in a place to which the public has access as licensee or invitees, while under the influence of intoxicating liquor, and did so operate said motor vehicle negligently, so that the lives or safety of the public might be endangered, and by said operation did cause serious bodily injury to a person, to wit: Christopher Lambert.

Against the peace of said Commonwealth, and contrary to the form of the statute in such case made and provided.

A true bill.

  
Thomas P. O'Connor

Foreman of the Grand Jury.

  
Joseph A. Nelson  
District Attorney  
S.A. 14

89-201

1990 Jun 24  
 Defendant has been notified by Clerk in open Court of his right to appeal sentence this day imposed to the Appellate Division of the Superior Court for a review of sentence as provided by G.L. Chap. 278, Sec. 28A, E.C.  
 (See Hugh J.)  
 & right to appeal verdict

Ch 90 S24L  
OUIL - Serious Injury

COMMONWEALTH

vs.

Gregory M. Donnelly

SUPERIOR COURT, July sitting, 1989  
 day — Returned by the Grand Jury  
 and filed in Court.

*Robert J. Kehl*  
 Ass't. Clerk

1993 May 12  
 Court Declares a Mistrial of  
 By the Court  
*Robert J. Kehl*

S.A. 15

IN THE NAME AND BY THE ORDER OF THE COURT  
 THAT THE DEFENDANT, *Robert J. Kehl*,  
 be sentenced to 14 days imprisonment,  
 to commence on the 1st day of September, 1990,  
 to be served in confinement at the Court House,  
 and to have no bail or recognizance.

DAYS MANTS ISSUED  
 BY THE COURT  
 WITNESSED BY *Robert J. Kehl*  
 ASSISTANT CLERK

This sentence to take effect from and after the  
 expiration of the sentence imposed this day in #89-201

Sentence suspended for 6 yrs  
 1990 Jun 24 Deft. as Pr. and  
 St. Plaintiff as Su.  
 recog. In \$100.00, and on 6 yrs:  
 no driving + no alcohol  
 probation.

By the Court  
*George M. Kehl*  
 Asst. Clerk  
 1990 Jun 10  
 Verdict - Guilty  
 Conv. - sentence for sentence  
 Con't to Jun 24, 1990 Dispt.  
 See Hugh J. *George M. Kehl*  
 Asst. Clerk

1993 May 12  
 PLEA RETRACTED AND PLED GUILTY  
 OFFERED AND ACCEPTED BY THE COURT  
 COMMONWEALTH MOVES FOR SENTENCE.

SENTENCE MASSACHUSETTS CORRECTIONAL  
 INSTITUTION  
Chestnut

FOR A TERM NOT EXCEEDING  
eight (8) YEARS, OR LESS  
 THAN sev (7) YEARS

This sentence is to take effect from and after the  
 expiration of the sentence imposed this day in #199-2016  
 Sentence suspended for Sixty Years.

1993 May 13 Dft. as Pr. and  
J. Gloucester Su

recg. in \$100.00 and on

probation line years 0 months  
 made of a short  
check-in Massachusetts

#1 placed to be exonerated  
 for obstruction of justice  
 if treatment is needed by the  
so under the supervision of the  
Probation Dept.

Gregory M. Donnelly  
Asst. Clerk  
Gloucester County  
Commonwealth

1993 Jan 10  
 Verdict - Guilty  
 Conv. moves for sentence  
 Con't to Jun 24, 1990 Dispt.

Ch 90 S24L  
 OUIL - Serious Injury

COMMONWEALTH  
 vs.

Gregory M. Donnelly

SUPERIOR COURT, July sitting, 1989  
 day - Returned by the Grand Jury  
 and filed in Court.

Robert J. Shell  
 Ass't. Clerk.

1989 Juwy 3/ Dfndt. vs. arraigned

and severally plead S not guilty.

498-  
 A jury is empaneled, viz.:  
1989 November 20  
 CERTIFIED UNTIL DECEMBER 11, 1989  
 FOR TRIAL AT 9:00

1990 Jan 8  
 After charge and before deliberation  
 Jurors Name and No. 27  
Lead #2 #3 #4 #5  
#2-16 D #2-17  
#4-14 T #5-15

Were withdrawn from panel, Ch.234A, S44  
 as arraigned  
 By the Court  
 (Judge) George M. Donnelly  
 Asst. Clerk

Defendant has been notified by Clerk in open  
 Court of his right to appeal sentence this day  
 Imposed to the Appellate Division of the Superior  
 Court for a review of sentence as provided  
 by G.L. Chap. 278, Sec. 28A, E.C.  
 (Non Height)  
 & right to appeal Verdict

1993 May 12  
 Court Declares a Mistrial  
 By the Court  
 Ovelawer J.

S.A. 16

**EXHIBIT JJ**

MIDDLESEX, 55.

# Commonwealth of Massachusetts

**SUPERIOR COURT**

### **GREETING:**

WHEREAS, by the consideration of our Superior Court, holden at Cambridge  
within and for the County of Middlesex, on the first Mongay of FEB,  
in the year of our Lord one thousand nine hundred and NINETY,  
GREGORY M. DONNELLY now in  
custody of the Sheriff of our said County of Middlesex, now before the Court by  
virtue of Writ of Habeas Corpus, convict of the crime of M.V. HORN.  
O.V.I.L CHP. 90 S 24 G  
was on the 28TH day of FEB in the year of our Lord  
one thousand nine hundred and NINETY, sentenced to  
confinement in the Massachusetts Correctional Institution, Cedar Junction -  
Concord - Framingham - Bridgewater, for a term not exceeding 15 years.  
or less than 13 years, and to stand committed accordingly  
to said sentence, this sentence is to be served concurrently with the sentence  
imposed this day in NO. 89-2016, this sentence is to be served concurrently  
with the sentence now being served in said institution, this sentence is to take  
effect from and after the expiration of the sentence now being served in said  
institution.

This sentence is deemed by the Court to have commenced on \_\_\_\_\_.  
The defendant having spent 39 days in confinement prior to such  
sentence awaiting and during trial.

\* WE THEREFORE COMMAND YOU, the said Sheriff and Deputies to remove the said DANVELLY from our jail in Cambridge, in said County of Middlesex, to our said Massachusetts Correctional Institution in Cedar Junction Concord - Framingham - Bridgewater, and you the said Superintendent to receive the said DANVELLY and immediately thereon cause him her to be confined therein for a term of not exceeding 15 years or less than 13 years as aforesaid.

And for so doing, this shall be your warrant. And you are to make return of this warrant with your doings therein to the office of the Clerk of our Superior Court in Cambridge, as soon as may be.

Witness, R. Steedman, Esquire, at Cambridge, this 28<sup>th</sup>  
day of Feb in the year of our Lord one thousand nine hundred and  
NINETY

*Fredrick B. Danby*  
Assistant Clerk

Date of off.

Form #24C

3/9/89

S.A. 38

COMMONWEALTH OF MASSACHUSETTS.

MIDDLESEX, ss. .... 228 1990.

In obedience to this Warrant, I have removed the within-named convict to the Massachusetts Correctional Institution, ..... together with an attested copy of this warrant.

*Frank Higgins, 88 PO  
Deputy Sheriff.*

No. 89-2017



Mittimus — Massachusetts  
Correctional Institution,

*Charles J. Hanley*

*Gregory Donnelly*  
1990 Feb. 28  
Balance transferred on  
Jan. 24 1990 to  
this day was paid  
By the Court  
McHugh, J

To the Superintendent of the receiving Correctional Institution: you are hereby commanded to withdraw from \_\_\_\_\_'s inmate savings or personal accounts, as a court-imposed assessment, the first fifteen/twenty-five dollars deposited to those accounts, said sum to be paid to this court for deposit in the Victim/Witness Assistance Fund pursuant to G. L. C. 258B, as added by C. 694, Sec. 1 of Acts of 1983.

By the Court,

*S.A. 39*

**EXHIBIT KK**

**SELECTED LITIGATION EVENTS, WITH  
BETTER INTERPRETATION AND ALTERNATE INTERPRETATION OF ACTIVITY**

*(Arrows indicate that a motion was disposed of by a given order)*

**Better Interpretation**

**Alternate Interpretation**

|                      |  |   |
|----------------------|--|---|
| ► April 13, 2005 –   | Letter sent from Petitioner to Justice Quinlan   | ◀ |
| ► April 28, 2005 –   | Motion to Correct Sentence filed in Middlesex Superior Court   | ◀ |
| May 30, 1995 –       | Order issued by Justice Quinlan on margin of Petitioner's April 13, 2005 letter  |   |
| ► October 16, 2002 – | Motion to Correct Illegal Sentence Filed in Suffolk Superior Court   | ◀ |
| October 30, 2002 –   | Decision of Justice Spurlock denying October 16, 2002 Motion to Correct Illegal Sentence   |   |
| October 31, 2002 –   | Letter sent from Middlesex DA's Office to Justices Spurlock and Quinlan stating that October 16, 2002 Motion to Correct Illegal Sentence concerned Middlesex County case |   |
| December 18, 2002 –  | “Order on Defendant’s Motion to Correct Sentence” of Justice Quinlan   |   |